

**REPORT TO THE LAW AND JUSTICE INTERIM COMMITTEE  
59<sup>TH</sup> MONTANA LEGISLATURE**

by Nancy Sweeney, Co-chair of the Equal Justice Task Force

Let me begin by thanking all of you for working on this committee, especially those of you who supported SJR 6 this past legislative session. Access to equal justice or more specifically the lack of access to equal justice negatively impacts the deepest levels of our society. Victims of abuse - the families, the women, children and the elderly- in domestic violence situations repeatedly find themselves homeless, unable to maintain employment, unable to obtain medical care, unable to consistently attend school, and simply unable to get adequate food on a daily basis. It is difficult to take advantage of free school lunch programs or receive CHIPS health coverage when a child doesn't have the same address for more than a month or two. Many single parent families are not receiving child support, perhaps because they could not obtain an attorney to initially file a court action or because they do not have the knowledge or resources to enforce an existing support order. Often times the lack of child support results in the family being evicted from housing, time after time. The child may not even attend school because constant chaos of moving and if they do attend school, their ability to focus on their classes is compromised by family problems and poor nutrition. These children are more likely to have health problems because they can only afford to live in substandard housing with inadequate heat or leaking radiators, creating mold problems and increasing asthma incidents. Although many of the problems of the poor may require an attorney to start a legal action, legal information on tenant laws, small claims actions, unemployment benefits, child support enforcement services, processing a claim for unpaid wages, domestic abuse safe houses and local programs can help break the cycle of poverty. A secretary working for the state with several children and receiving no child support qualifies under federal poverty guidelines. The average Montanan has no savings and is three months away from being homeless. The lack of legal assistance is a problem that effects us all, perhaps not our families directly but through someone we see every day or through increased taxes to pay for social assistance programs.

The Equal Justice Task Force was created by the Montana Supreme Court in at the end of August in 2000. Our mission is to work toward assuring access to the civil justice system through the provision of high quality legal services. There are many agencies, organizations, equal justice advocates and private attorneys involved in providing civil legal services to low income people. The Task Force was assigned the task of coordinating their efforts to provide access to justice for all Montanans.

The initial order establishing the Task Force identified four specific directives.

1. To study the legal needs of low and moderate income people in Montana. Through the collaborative effort of the State Bar, the Equal Justice Task Force, the Access to Justice Committee and numerous equal justice advocates and VISTA workers, a legal needs study was completed. This largely volunteer effort has taken longer than expected, approximately two years, but has had the added benefit of engaging a variety of people in this equal justice initiative.

2. To provide long-range, integrated planning among the numerous legal assistance providers and other interested agencies and entities in Montana. The EJTF, in conjunction with the Access to Justice Committee of the State Bar, has sponsored two equal justice planning retreats, where representative members of the legal community identified and ranked the most pressing civil legal problems and established action plans to address those needs. Part of the action plan included holding annual Equal Justice Conferences to raise awareness of Montana's civil legal needs as well as provide information on community programs and resources available in the state. Five equal justice conferences have been held to date, the first in Missoula, then Billings in 2002, Helena in 2003, Missoula in 2004 and Billings this past June.

3. To coordinate civil access to justice, foster the development of a statewide, integrated civil legal services delivery system, and design and implement new programs to expand access to justice opportunities. The EJTF is supported entirely by the State Bar and in an effort to minimize expenses, we meet monthly by teleconferencing and hold an in-person meeting quarterly. The diverse members of the Task Force pay their own travel and lodging expenses, as well as conference fees. The Equal Justice Conferences have included seminars on how to start a local pro bono program, information on judicial involvement in equal justice activities, instruction on how to handle pro bono domestic relations cases, social security benefits, the Drug court in Billings, consumer law and predatory lending, guardians ad litem for youths and other equal justice issues. With the assistance of the Equal Justice Task Force, Pam Bucy, the other co-chair of the EJTF and myself, developed a mandatory parenting class for all people who have children and file a domestic relations case in Lewis and Clark County. The program uses volunteer counselors and mediators and our local judges to educate the parents on the detrimental effect of conflict on children and the limitations of the courts to resolve their disputes. The program is available, via video conferencing, to other courts throughout Montana and designed to expand access to justice opportunities. Video conferencing has been used to reduce the costs of clients and attorneys traveling

from remote location both for consultation as well as court hearings, to reduce the costs of expert witnesses traveling to court hearings and to reduce the cost of judges traveling to multi-county jurisdictions. The Task Force helped organize the creation of several web based legal advice products. [montanalawhelp.org](http://montanalawhelp.org), provides information on legal resources in specific areas, information on court procedures and access information and static forms and court pleadings. [Probono.net](http://Probono.net) provides research on legal topics, briefs and networking with other pro bono attorneys. In the near future Hotdocs will provide interactive forms for pro se litigants.

4. To work toward securing adequate funding for civil access to justice. The Equal Justice Task Force has worked with the equal justice community to have access to grants from the Montana Justice Foundation but this funding has been severely limited in the last few year because low interest earned on client trust accounts in the IOLTA program. Through the efforts of Jonathan Motl, a member of the Montana Justice Foundation, Mountain West Bank has raised the interest rates on IOLTA accounts and we are hopeful that other banks will follow their example. Jon was also successful in getting a cy pres contribution to the Montana Justice Foundation. The award came out of a settle agreement in a class action case filed in Lewis and Clark County. Judge Dorothy McCarter approved the settlement which would allow unclaimed settlement funds to be distributed to the Justice Foundation and United Way. The Equal Justice Task Force also supported several legislative bills to provide more funding for civil legal services. One piece of legislation increased money from district court filing fees for civil legal services to indigent domestic violence victims. Although stricken from the bill before final passage, it also proposed a tax credit to attorneys providing qualified pro bo services. SJR 6 was another piece of legislation supported by the Equal Justice Task Force and other equal justice entities and we hope this committee will help us find ways to secure additional funding for civil access to justice.

The Equal Justice Task Force is comprised of 15 members, all dedicated to contributing their skills and resources to equal justice efforts. The members are representatives from Montana Legal Services Association, Montana Pro Bono Project, the State Bar of Montana, the Judges Association, the Attorney General's office, the Clerks of Court Association, the University of Montana Law School, the Commission on Self Represented Litigants, the Montana Justice Foundation, the People's Law Center, the Council on Aging, the Native American community, the Montana Advocacy Project, the Department of Health and Human Services and the Courts of Limited Jurisdiction.

In Lewis and Clark County the number of pro se litigants has risen dramatically over the past 10 years. In 1994, 6.2% of all divorce, family law and civil cases had at least one pro se party. In 1999, the number increased to 34.7% and in 2004 48.8% of all divorce, family law and civil cases had at least one pro se party. Although it is difficult for the courts and especially the clerk of court's offices to handle these cases, perhaps these numbers are an indication of the success of the limited forms available on montanalawhelp.org and the efforts of Montana's equal justice community to provide tools and information on how to access the courts. I think it is more likely a reflection of the increasing number of Montanans living in poverty, of the increased debt collection actions and of the breakdown of families caused by unemployment, single parent households and increased economic stress. Reliable studies have documented that between 70 and 80 percent of the legal needs of poor people in the United States go unaddressed year after year. Despite the best efforts of the organized bar and advocates committed to equal justice for all, we have not made enough progress in serving the legal needs of those whom poverty drags down and keeps down. It is evident that the problem of addressing unmet legal needs of our disadvantaged is larger than the legal profession can solve by itself. Our nation as a whole lags behind other major industrialized countries of the world in providing meaningful help to poor people with legal problems. In and of itself, money will not meet all the legal needs of the people of Montana but funding, together with the creative and dedicated individuals in the our equal justice communities, can be a powerful step forward in breaking the cycle of poverty.