

SJR 6: CIVIL LEGAL SERVICES TO LOW INCOME MONTANANS

Consolidated List of Ideas/Options Mentioned So Far

Law and Justice Interim Committee
Meeting #2 - Day 1: September 21, 2005

1. Courts
 - a. simplify forms, especially in area of family law and end of life matters
 - b. standardize processes so each District Court process is same or substantially similar
 - c. provide mediation process prior to contested case before court, or a "sub court" (e.g., a family law court)
2. Pro Bono
 - a. provide a tax credit or other incentives for attorneys who provide pro bono services
3. Pro Se
 - a. pro se stations in each courthouse, dedicated person in clerk of court's office and a dedicated computer so pro se litigants can have ready access to court info. and forms
 - b. provide for a legally-trained staff position to offer court-based assistance to pro se litigants (may be similar to item 3. a.)
 - c. fund self-help centers (projects like Eastern Montana Self-Help Law Project)
 - d. support more pro se appellate resources
4. Attorneys and para professional staff
 - a. funding for MLSA to hire more attorneys and paralegals to provide immediate "triage" on a legal problems, keep the problems from escalating, refer people to most appropriate service
 - b. fund a program for immediate neutral review of potential legal problems to determine what resources person needs and level of support needed (may or may not be similar to item 4. a.)
5. Tribal matters
 - a. promote better communication, direct tribal involvement and input into this strategic planning process (no specific legislative course of action has yet been proposed but Rep. Windham suggested contacting all Tribal Governments about their legal services, and having a standardized letter to request their input and participation)
 - b. fund civil legal service centers on reservations
6. Funding sources
 - a. raise filing fees

September 21, 2005, Meeting Notes

SJR 6

Staff Background Report

- Historical perspective; immigrant aid societies; government agency spearheading war on poverty; independent, Congressionally-funded Legal Services Corporation
- Components
 - Staff attorneys
 - Pro-bono services by private attorneys
 - Self-help (pro se)
- Directory of stakeholders and players listed
- Summary of legal needs study and findings

MLSA, Executive Director Klaus Sitte

- Federally set income eligibility guidelines
 - MLSA serves people with income at 125% or less of federal poverty guidelines (as published by the U.S. Dept. of Health and Human services)
 - may serve people with income between 125% and 187% of poverty, but usually that involves simply providing basic advise or referral
- Series of significant funding cuts, services have been cut back to 14 attorneys for 174,900 eligible population.
- Current initiatives and programs
 - Video conferencing
 - Family law (domestic violence in particular)
 - Self-help program (Eastern Montana Self-help law project)
 - Collaborations, web sites, strategic planning sessions
 - "Care and feeding" of pro bono efforts
- Consequences when critical legal needs go unmet and problems escalate
 - economic crisis -- job loss, homelessness
 - family crisis -- break-ups, domestic violence, children in poverty, children neglected or abused
 - social crisis -- substance abuse, criminal activity, corrections, treatment needs, high-end public costs
- Directly affects about 1 in 5 citizens

Chris Manos, State Bar Association

- State Bar Access to Justice Committee active in promoting pro bono, supporting MontanaHelpLaw.org web-based resources, collaborating with Supreme Court's Equal Justice Task Force
- Provides financial assistance to effort by sponsoring meetings, travel costs, seminar expenses
- Secured the \$45,000 to \$50,000 needed for the Legal Needs Study
- Members participate in IOLTA program, client trust account interest used as a primary funding source for MLSA
- About 3,000 Bar members statewide

Tara Veazey, Eastern Montana Self-Help Law Project

- 60% to 80% of family law litigants are pro se
- Nationally, about 90% of tenant who litigate are pro se
- Most pro se litigants are poor, young, and female
- Trend is more and more cases will be pro se
- Key questions: (1) What can we do better to ensure those who most need an attorney get an attorney; and (2) When a person can't get an attorney, how can we help them help themselves.
- Projects and initiatives
 - Standardizing forms, especially re: family law
 - Community education
 - Self-help work stations (Miles City, Glasgow, Glendive)
 - Conducting clinics via video conferencing
- Key limitations of self-help law project
 - 1 attorney, 1/2-time paralegal (not enough legal expertise available to help people help themselves)
- National trends and other states
 - Maricopa County, AZ, model program based on grant funding
 - 11 states now developing comprehensive pro se programs, centers, hotlines, in-court self-help stations, one-on-one advise, clinics
 - Most states are like Montana, no comprehensive pro se program
- Needs
 - Easy to use forms
 - More self-help centers
 - Hot line
 - More money to offer direct representation in more complex cases
 - More pro bono support
 - More "triage" attorneys
 - More clinics and training for those who can help pro se
 - Pro se appellate resources

- Legal need precipitates crisis...will bring a person or family down, or, if legal assistance is provided, can be a transforming experience--change lives

Jim Taylor, Native American Issues

- PowerPoint presentation -- copy will be made available

Nancy Sweeny, Co-Chair, Equal Justice Task Force (Supreme Court)

- Task Force Mission: Coordinate efforts to provide equal access to justice
- 4 directives:
 - study legal needs (accomplished, 2-yr study sponsored by State Bar)
 - conduct long-range integrated planning (2 planning retreats, annual conferences, five conferences held to date)
 - foster delivery of integrated delivery systems (collaborated to develop web-based products)
 - work toward securing adequate funding
 - IOLTA funding going down because of low interest rates
 - grants not sufficient
- Needs and goals:
 - need to increase filing fees, dedicate \$ to civil legal services
 - provide tax credit to attorneys for pro bono activities
 - SJR 6 study to develop legislation and more ideas/solutions
 - Despite best efforts, 80% of need still unmet, U.S.A. behind rest of world

Public comment

- Debra Onsback, MLSA attorney, has clinic in Billings, pairs attorneys with doctors to address medical stresses, Dearing Clinic opened in Billings, MLSA sponsored with funding to June...now looking for more funding to keep going
- Melissa Worthan, Missoula, wants greater accountability for poor public defender services, more support for pro se litigants
- Rodney Brown, retired state employee, former director fo county welfare office serving Broadwater, L&C, Jefferson Counties, extreme economic turmoil causes emotional paralysis, disability, need for direct representation and "hand holding" by an attorney, can't do it pro se, too stressful, need more support and incentives for attorneys to help
- Gary Olson, JP in Broadwater County and Michell Snowberger, City Judge in Belgrade: typical scenario is person attempting pro se does not have good understanding of court system and procedures, can't navigate, intimidated and overwhelmed by process, need help and resources for these folks
- Kandi Mathew-Jenkins, Missoula, campaign for parents falsely accused of abuse and neglect: need better public information campaign about MLSA and what other resources are available.

- Neil Haight, former director, MLSA, ideally would have attorney to represent everyone who needed an attorney, can't, too expensive...must rely on emerging technologies, improve pro se
- Ann Gilkey, State Bar: handed out letters explaining how direct attorney representation was key to successful outcomes and changing lives for the better
- Rep. Mary Caferro, on behalf of WEEL: spoke to needs of Montanans living in poverty, mostly children, young single women.

Afternoon Session

LaNette Diaz, WORD, Missoula

- Needs for pro se
 - forms for parenting plans, family law matters, divorce
 - more info. sharing with social services agencies about legal services
 - end of life matters, wills, estate planning, probate cases (MLSA can't support this)

Beth Brennaman, MAP

- MAP is able to serve 70% of people who call, but that includes referrals
- Hardest cases to support and refer (typically not fee-generating cases):
 - child abuse
 - housing
 - guardianship/trusts/wills
 - access to services by those in jail
 - medication disputes
 - police harassment
 - privacy issues

Ms. Tammy Hinderman, State Law Library

- Library is usually last resort for people
- Seeing rise in "elder law" areas (Medicare, long-term care, age discrimination, grandparent visitation and custody)
- Lack of uniformity in District Court processes and forms very difficult
- Needs/goals:
 - Legally-trained court-based assistants
 - Statewide triage system
- Technology can't do it all, there is a large digital divide, lack of access, lack of skills

Judge Fagg (13th Judicial District, Yellowstone County)

- Majority of cases with pro se litigants are dissolution and paternity
- Judicial District has program called the Family Law Project, asking attorneys to assist in certain number of family law cases per year, also providing family law classes; paralegal assistant invaluable to success of program and assistance in pro se cases
- Many involved still go it alone, without help
- Supreme Court's District Court Commission is working on coming up with more standardized forms for use in the court
- Ideas/goals/solutions
 - designate one person in each court as a pro-se expert in the clerk of court's office who will be available exclusively for pro se cases
 - put a computer station in each courthouse (in the clerk's office) with all the forms needed for pro se litigants and have some technical assistance on hand so people can learn how to use the computer
 - have a staff member like the paralegal assistant in the 13th Judicial District who will spearhead efforts to assist pro se litigants
 - dedicated funding to pro se resources

Round Table Discussion

- Questions, ideas, and themes discussed
 - early evaluation of a "problem" by a neutral party to determine legal issues and needs
 - mediation prior to court proceedings
 - coordination with tribes on their legal needs, requirements for new programs...no programs there now (on most reservations)
 - making pro bono mandatory...enforcement is an issue...problems trying to "force" voluntary, non-compensated service
 - clarification of "low income" and "moderate income" -- up to 125% of poverty = low income --- moderate income = up to 200% of poverty
 - To Mr. Sitte: if money were available, where would you spend it? -- A: on pro se support, Ms. Veazey agreed
 - how to expand pro bono, difficult to do, State Bar working hard

Work Session

- Rep. Stoker: Requested (1) consolidated list of all organizations (was referred to printout directory from MontanaLawHelp.com); (2) summary of all the funding these groups have for civil legal services
- Rep. Windham: Suggested contacting all Tribal Governments about their legal services, and having a standardized letter to request their input and participation
- Sen. McGee Requested information on predatory lending
- Rep. Everett: Requested information about whether any DPHHS programs currently have funding to support civil legal services, Rep. Parker responded, didn't think so, new Public Defender office will provide services in abuse and neglect cases and some other civil matters
- Sen. McGee: Asked Mr. Sitte and MLSA to clarify numbers, definition of poverty
- Sen. Perry: Emphasized need for accurate facts at the outset
- Rep. Parker Would like agenda for next meeting to include time for learning about typical civil legal services cases and who the people needing services are
- Sen. McGee: Perhaps LJIC should consider:
- ways to simplify court procedures and processes
 - ways to provide legal assistance at a paralegal level rather than by direct attorney representation (as an RN is to a Doctor, etc.)
 - some type of "sub-court" or mediation process prior to full-blown court proceeding