



WISCONSIN LEGISLATIVE COUNCIL

Access to Civil Legal Services

Room 411 South
State Capitol, Madison, WI

November 14, 2016
9:00 a.m. – 1:00 p.m.

[The following is a summary of the November 14, 2016 meeting of the Study Committee on Access to Civil Legal Services. The file copy of this summary has appended to it a copy of each document prepared for or submitted to the committee during the meeting. A digital recording of the meeting is available on our Web site at <http://www.legis.state.wi.us/lc>.]

Call to Order and Roll Call

Chair Horlacher called the meeting to order. The roll was called and a quorum was determined to be present.

COMMITTEE MEMBERS PRESENT: Representative Cody Horlacher, Chair; Senator Duey Stroebel, Vice Chair; Representatives Joan Ballweg, Amanda Stuck, and Lisa Subeck; Senator Robert Wirsch; and Public Members Erin Boyd, Rick Esenberg, James Gramling, Kimberly Haas, Gregg Moore, David Pifer, David Prosser, Michael Rust, Amy Wochos, and Glenn Yamahiro.

COUNCIL STAFF PRESENT: David Moore, Senior Staff Attorney, and Rachel Snyder, Staff Attorney.

APPEARANCES: Jill Karofsky, Director, Office of Crime Victims Services, Wisconsin Department of Justice; and Karen Lash, Deputy Director, Office for Access to Justice, U.S. Department of Justice.

Approval of the Minutes from the September 14, 2016 Meeting

Mr. Gramling moved, seconded by Mr. Rust, that the minutes of the September 14, 2016 meeting be approved. The motion was approved by voice vote.

Presentation on Crime Victims' Access to Civil Legal Services

Jill Karofsky, Director, Office of Crime Victims Services, Wisconsin Department of Justice

Ms. Karofsky explained that crime victims often feel overlooked and traumatized by the criminal justice system, which discourages them from reporting crime. She noted that a lack of reporting can be dangerous because it results in fewer perpetrators being stopped and held accountable for their actions.

Ms. Karofsky stated that Wisconsin has been a leader in affording crime victims particular rights. In 1980, Wisconsin became the first state to enact a Victims' Bill of Rights, now codified in state statute as ch. 950, Stats. Further, in 1993, Wisconsin ratified Article 1, Section 9m of the Wisconsin Constitution, formally recognizing crime victims' rights. Victims' rights are enforced by the Crime Victims' Rights Board, which is unique to Wisconsin, but crime victims also have standing to enforce their rights on an individual basis in court.

Ms. Karofsky stated that the federal government has also made strides towards protecting victims. Notably, the Victims of Crime Act (VOCA) was enacted in 1984. VOCA established a grant program, under which states receive federal funding to be distributed to subgrantees for the purpose of supporting crime victim services. The grant is not taxpayer funded; rather, it is funded via the collection of criminal fines, forfeited bail bonds, penalty fees, and special assessments imposed upon federal criminals.

Ms. Karofsky explained that, although significant progress has been made towards protecting crime victims, much more can still be done. Specifically, she noted that crime victims often face a variety of civil legal issues as a result of or relating to their victimization, including issues with housing, records privacy, immigration, public benefits, and employment. Ms. Karofsky explained that now may be an ideal time to address some of the need by establishing a crime victim legal assistance clinic because: (1) Congress has been raising the amount of VOCA funding available by a significant amount, and it appears likely that the funding stream will remain stable; and (2) federal rules about how VOCA funding must be spent have recently changed from supporting only emergency crime victim services to supporting both emergency and non-emergency crime victim services.

Ms. Karofsky stated that there are three options for the placement of such a clinic. A clinic could be established at the University of Wisconsin (UW) Law School, at an existing organization other than the law school, or at a newly created organization with its own location. Ms. Karofsky recommended establishing the clinic at the UW Law School because: (1) it may be less expensive because students work for credit and experience rather than pay; (2) the UW Law School has other clinics that are able to provide service throughout the state and would likely be able to establish a crime victim legal assistance clinic with a similar broad geographical reach; and (3) the clinic would train future Wisconsin lawyers to be knowledgeable about crime victims' needs and rights.

Presentation on Using Federal Grants to Fund Civil Legal Services

Karen Lash, Deputy Director, Office for Access to Justice, U.S. Department of Justice

Ms. Lash provided an overview of the U.S. Department of Justice Office for Access to Justice and the Legal Aid Interagency Roundtable (LAIR). Ms. Lash stated that LAIR was established because of a belief that civil legal aid can be viewed as a tool that furthers the purposes of federal programs and can, therefore, make such programs more effective and more efficient. As an example, she described how a person may receive federal employment assistance in the form of job training through the U.S. Department of Labor, but that the person may be unable to successfully find a job due to a criminal record or a revoked driver's license. In addition to job training, if the federal employment assistance funding could also be used to help the person get his or her record expunged or driver's license reinstated, then the person may be successful in obtaining a job, thus making the use of the federal funding more effective.

According to Ms. Lash, one of LAIR's functions is to help federal agencies identify whether federal funding for specific programs can be used for civil legal aid and whether such use would make the identified programs more effective. Ms. Lash stated that LAIR and its 22 member agencies recognize that there is low public awareness about the existence and potential benefits of legal aid. They also recognize that economic benefits can be realized by investing in civil legal aid, primarily in the form of avoided costs resulting from future harm or future need for public assistance that may be halted by legal intervention.

Ms. Lash then highlighted several specific federal block grants that permit, but do not require, the use of funds for civil legal aid. She also provided examples of how other states have used federal funds to provide civil legal aid. Specifically, Ms. Lash discussed the following grants: (1) VOCA; (2) Temporary Assistance for Needy Families (TANF); (3) Community Development Block Grant (CDBG); (4) Services, Training, Officers, and Prosecutors (STOP) Violence Against Women; and (5) Community Services Block Grant (CSBG). Ms. Lash suggested that the committee could review how these grants are currently used in Wisconsin and encourage state agencies, where appropriate, to use at least some of the funds for the provision of civil legal aid in order to further the purposes of each grant program and the goals of each agency.

Discussion of Committee Assignment

Chair Horlacher began committee discussion by focusing on Ms. Karofsky's proposal to establish a legal assistance clinic for crime victims. There was general agreement among the committee members that a crime victim legal clinic would be beneficial, but some members expressed concern about requiring the UW Law School to establish and operate such a clinic without consulting with the law school. Committee staff were directed to draft a bill requiring the establishment of a crime victim legal assistance clinic for consideration at the next committee meeting and to communicate with the law school about the proposal.

The committee continued its discussion after the presentation by Ms. Lash. The continued discussion was organized around the letter of recommendations submitted to the committee by public members James Gramling and Judge Glenn Yamahiro. Committee staff were directed to draft a bill requiring state agencies that receive federal grants that may be used

for the provision of civil legal aid include civil legal aid for low-income people as a permissible and encouraged use of the funds in its requests for proposals. The committee requested a memorandum from the Legislative Fiscal Bureau that provides detailed information about TANF, including historical information about TANF surpluses, information about how the funding is currently spent, and permissible TANF uses. Finally, the committee requested that committee staff consult with the Department of Children and Families regarding TANF.

The committee requested more information regarding the recommendation to require the Wisconsin Department of Veterans Affairs (DVA) to provide space for legal aid providers to meet with veterans. Committee staff were directed to consult with DVA and to explore whether a bill draft or a formal recommendation would be appropriate.

Committee staff were directed to draft a recommendation in support of expanding mediation services on a statewide basis. There was general agreement that the Winnebago Conflict Resolution Center is a successful model for providing these types of services.

Committee staff were also directed to draft recommendations regarding the following: (1) evaluating the benefits of appointed counsel in critical civil cases; (2) improving access to legal information via technology, including the creation of fillable court forms; and (3) requesting a study of the economic impact of civil legal aid in Wisconsin.

In addition to the recommendations proposed in the letter from the public members, the committee also expressed an interest in submitting letters to the State Bar of Wisconsin, to the court system, and to the counties, as appropriate. These letters might include some of the recommendations discussed above and the following: (1) a discussion encouraging lawyers to provide civil legal services pro bono; and (2) a discussion encouraging exploration of limited scope representation and alternative legal licenses or credentials for relatively simple legal services.

The committee will consider the recommendations and bill drafts discussed above at its meeting in December, at which point the committee will determine the form of its final work product.

Other Business

There was no other business.

Plans for Future Meetings

A meeting will be scheduled in December. Committee staff will poll members regarding possible dates. Chair Horlacher will select a date based on the information gathered and will promptly notify committee members.

Adjournment

The meeting was adjourned at 1:00 p.m.