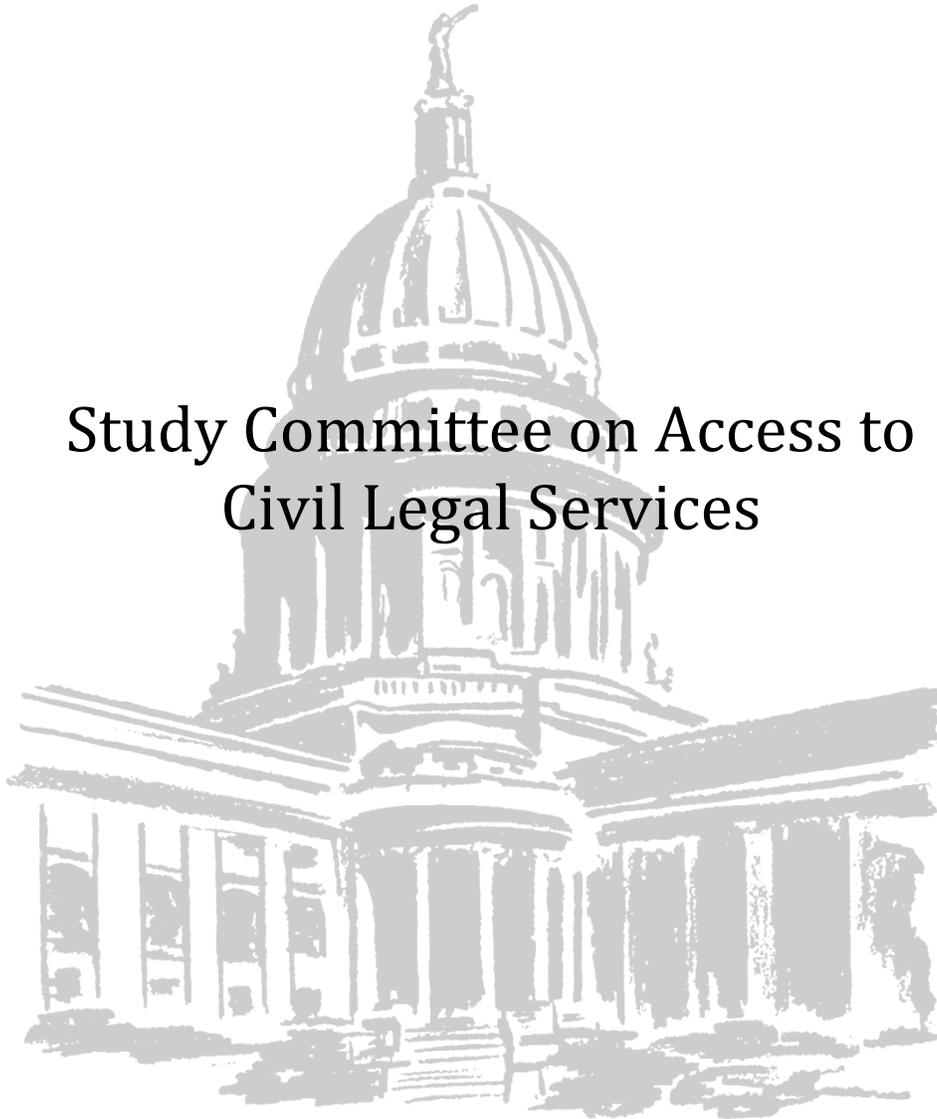


# Report to the Joint Legislative Council

## Study Committee on Access to Civil Legal Services



February 3, 2017

LCR 2017-08

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# STUDY COMMITTEE ON ACCESS TO CIVIL LEGAL SERVICES

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February 3, 2017

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# PART I

## KEY PROVISIONS OF COMMITTEE RECOMMENDATIONS

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The Study Committee on Access to Civil Legal Services recommends the following bill drafts to the Joint Legislative Council for introduction in the 2017-18 Session of the Legislature, and presents the following general recommendations to the Legislature.

### **LRB-2006/1, RELATING TO ALLOWING DISTRICT ATTORNEYS, DEPUTY DISTRICT ATTORNEYS, AND ASSISTANT DISTRICT ATTORNEYS TO ENGAGE IN THE PRIVATE PRACTICE OF LAW FOR CERTAIN CIVIL PURPOSES**

LRB-2006/1 authorizes a full-time district attorney, deputy district attorney, or assistant district attorney to provide legal services to a person of limited means or to a charitable, religious, civic, community, governmental, or educational organization if the attorney provides the services without fee and the services are not in conflict with the interests of the district attorney's county.

### **LRB-0982/1, RELATING TO THE AUTHORITY OF THE DEPARTMENTS OF ADMINISTRATION, CHILDREN AND FAMILIES, WORKFORCE DEVELOPMENT, JUSTICE, AND HEALTH SERVICES TO ALLOCATE FEDERAL GRANT MONEY FOR CIVIL LEGAL AID**

LRB-0982/1 establishes a legislative recognition that the difficulty low-income, indigent, vulnerable, and at-risk populations face in fulfilling basic human needs may be caused or compounded by lack of access to civil legal services and that providing these populations with free or reduced-fee civil legal services to fulfill these needs can be an effective way to reduce the dependence of members of these populations on public assistance or other government programs. The bill draft encourages, but does not require, the Departments of Administration (DOA), Health Services (DHS), Children and Families (DCF), Workforce Development (DWD), and Justice (DOJ) to allocate, to the extent authorized by federal law, any federal block grant money they administer and that is intended to benefit low-income, indigent, vulnerable, or at-risk populations for the purpose of providing civil legal aid to qualified individuals.

### **LRB-1263/1, RELATING TO THE CREATION OF THE INTERAGENCY LEGAL AID COORDINATING COUNCIL**

LRB-1263/1 creates an Interagency Legal Aid Coordinating Council (council), consisting of the following members: (a) the Secretaries of the DOA, DCF, DHS, and DWD or their designees; (b) the Attorney General, or his or her designee; (c) the Executive Director of Wisconsin Judicare, Inc.; (d) the Executive Director of Legal Action of Wisconsin, Inc.; (e) one member, appointed by the Governor, who is also a member of the Wisconsin Access to Justice Commission; and (f) two

additional members who represent the public interest, appointed by the Governor. The purpose of the council is to, on an ongoing basis, evaluate the following: (a) how providing low-income, indigent, vulnerable, and at-risk populations with access to civil legal services may fit into, serve, or further the missions, responsibilities, and goals of the agencies; and (b) the use or potential use of federal grant money received by the agencies that may be used for the purpose of facilitating access to civil legal services for such populations. The council would be required to report, annually, to the Legislature, Governor, and Supreme Court. It would also be responsible for preparing, on a one-time basis, a report on the economic impact of providing funding to improve access to civil legal services.

### **RECOMMENDATION – VETERANS AFFAIRS FACILITIES**

The Joint Legislative Council Study Committee on Access to Civil Legal Services recommends that the Department of Veterans Affairs (DVA) makes available space within the veterans homes the department operates, at least once a month, for consultation between legal aid providers and veterans. In addition, the committee recommends that the DVA facilitate the development of partnerships between DVA, county veterans service officers, and legal aid providers.

### **RECOMMENDATION – MEDIATION**

The Joint Legislative Council Study Committee on Access to Civil Legal Services recommends that counties consider implementing or expanding mediation in civil cases as a cost-effective means of improving the administration of justice.

### **RECOMMENDATION – TECHNOLOGY TO IMPROVE ACCESS TO LEGAL INFORMATION AND THE COURT SYSTEM**

The Joint Legislative Council Study Committee on Access to Civil Legal Services recommends that the Wisconsin Court System: (a) explore the expansion of the types of cases and proceedings for which it provides standardized fillable court forms and guided form-filling assistance for self-represented litigants through the Wisconsin Courts website; and (b) explore creation of additional electronic resources to increase access to legal information and support for self-represented litigants. The Study Committee recommends that the Legislature consider supporting these initiatives by providing funding to the Wisconsin Court System for these purposes in the 2017-19 Biennial Budget.

### **RECOMMENDATION – PRO BONO SERVICES AND LIMITED SCOPE REPRESENTATION**

The Joint Legislative Council Study Committee on Access to Civil Legal Services recommends that the Wisconsin Supreme Court and the State Bar of Wisconsin continue to collaborate to expand opportunities for and promote attorney participation in providing pro bono services and limited scope representation for low-income civil litigants. The Study Committee especially encourages the State Bar of Wisconsin and the Supreme Court to adopt emeritus pro bono practice rules that would

waive some of the normal licensing requirements for attorneys agreeing to limit their practice to volunteer service.

### **RECOMMENDATION – CRIME VICTIMS LEGAL PROGRAM**

The Joint Legislative Council Study Committee on Access to Civil Legal Services recommends that DOJ work with the UW Law School to establish a legal program to address the needs of crime victims in Wisconsin.

### **RECOMMENDATION – PUBLICLY EMPLOYED ATTORNEY PRO BONO CIVIL LEGAL SERVICE**

The Joint Legislative Council Study Committee on Access to Civil Legal Services recommends that the Legislature explore expanding the categories of publicly employed attorneys, in addition to district attorneys, deputy district attorneys, and assistant district attorneys, who are authorized to provide pro bono civil legal services to low-income individuals.



# PART II

## COMMITTEE ACTIVITY

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### ASSIGNMENT

The Joint Legislative Council established the Study Committee on Access to Civil Legal Services and appointed the chairperson by an April 18, 2016 mail ballot. The Study Committee was directed to review the funding and delivery of legal services for the indigent in civil cases. In accordance with its scope statement, the committee was required to do the following: (a) review the need for legal services by indigent civil litigants; (b) identify additional non-GPR sources of revenue to provide civil legal services for the indigent; and (c) review current operations.

Membership of the Study Committee was appointed by a June 10, 2016 mail ballot. The final committee membership consisted of two Senators, four Representatives, and 10 public members. A list of committee members is included as **Appendix 3** to this report.

### SUMMARY OF MEETINGS

The committee held four meetings on the following dates:

July 27, 2016

September 14, 2016

November 14, 2016

December 19, 2016

The July 27, 2016 meeting began with presentations by representatives of the State Bar of Wisconsin and the American Bar Association. First, **Jeff Brown, Pro Bono Program Manager, State Bar of Wisconsin**, provided the committee with an overview of the discussions and activities regarding the issue of access to civil legal services for low-income individuals that have been taking place in Wisconsin over the past 10 years. He focused on the State Bar of Wisconsin's report, *Bridging the Justice Gap: Wisconsin's Unmet Legal Needs* and the Wisconsin Access to Justice Commission's report, *The State of Equal Justice in Wisconsin*, and described some of the actions taken in response to the reports, including: (a) a legislative appropriation in the 2015-17 Biennial Budget for civil legal services to abuse victims; (b) various Wisconsin Supreme Court rules changes; and (c) education offered to judges on their authority to appoint counsel in civil cases.

Next, **April Faith-Slaker, Director, Resource Center for Access to Justice Initiatives, American Bar Association**, described state and national studies, conducted since the 1980s, documenting the "justice gap" between legal needs and the resources available to meet them. She discussed the economic impact of civil legal aid, reviewed national funding trends for civil legal aid, and told the committee about initiatives in other states to address the justice gap, such as increasing funding for

civil legal services, incentivizing pro bono work, expanding resources to assist self-represented litigants, and promoting limited scope representation.

The committee then heard presentations from representatives of organizations that provide civil legal services to specific populations. **Dan Idzikowski, Executive Director, Disability Rights Wisconsin (DRW)**, told the committee about the legal needs faced by people with disabilities. He noted that research has concluded that people with disabilities are more likely to experience legal problems and, when they do, they tend to experience a greater number of legal problems intertwined with nonlegal problems. He also described legal assistance DRW provides, and told the committee that lack of funding is the primary obstacle to DRW's ability to meet the need for legal services.

**Kate Schilling, Legal Services Manager, Elder Law and Advocacy Center, Greater Wisconsin Agency on Aging Resources (GWAAR)**, told the committee about the legal assistance that GWAAR provides, through the Elder Benefit Specialist program and the Wisconsin Guardianship Support Center, to clients who are at least 60 years old.

**Marsha Mansfield, Director, Economic Justice Institute, University of Wisconsin Law School**, described the legal assistance that the clinics within the Economic Justice Institute provide to low-income individuals. She also explained how lack of access to legal assistance for an initial legal problem can create a snowball effect that results in greater costs to the community over time.

During the September 14, 2016 meeting, **Jill Kastner, Attorney, Legal Action of Wisconsin**, told the committee about the legal assistance she provides to veterans, the most common types of legal issues she handles, and how the legal services she provides are funded. She also suggested some ways to improve veterans' access to legal services, including providing additional funding for civil legal services for veterans, encouraging DVA facilities and other organizations that provide services to veterans to collaborate to provide on-site legal aid clinics, and incentivizing organizations that receive Supportive Services for Veteran Families grants to collaborate with legal aid providers.

**Colonel David Dziobkowski, Staff Judge Advocate, Wisconsin National Guard**, explained that, in addition to their primary responsibilities to advise National Guard commanders on active duty-related issues, federal regulations require judge advocates with the Wisconsin National Guard and the Department of Military Affairs (DMA) to provide legal assistance to members of the National Guard and to provide some civil legal services to other active-duty and reserve military personnel who are in the state. He also told the committee about the types of legal services that judge advocates provide, and explained that, due to a number of limitations on their ability to provide these services, they are unable to fully meet the needs of active service members. Because their primary responsibility is to active service members and their resources are limited, Colonel Dziobkowski explained that the judge advocates are generally unable to provide legal services to veterans, although they frequently receive requests from veterans for civil legal assistance.

**Kristy Bradish, Retired Executive Director and Volunteer Mediator, Winnebago Conflict Resolution Center, Inc.** (Center), gave a brief overview of the Center, and discussed the benefits of mediation enjoyed by both the court system and the parties involved in mediation. She told the committee that the benefits of mediation through the Center include that it is generally free to the parties, faster than the formal legal system, less formal, and not limited by legal remedies. She also

said that the mediators guide parties to a mutually acceptable solution that is focused not just on the issue that led to the mediation but also on how issues will be addressed in the future. Ms. Bradish explained that mediation can be used to resolve a variety of civil cases that would otherwise be handled through the traditional legal system, thus reducing the overall case burden of the court system, and said that types of cases suitable for mediation include small claims, some large claim civil cases, evictions, probate, adult guardianship, divorce and post-divorce property division, and harassment restraining orders.

**Jim Sandman, President, Legal Services Corporation**, discussed the importance of ensuring that individuals who need a lawyer to help with legal issues that implicate the fundamentals of life--such as housing, employment, and the ability to care for one's family and children--have access to legal services. He provided data on the gap between the number of people in need of legal services who cannot afford an attorney and the resources available to those people. He explained that approximately one-fifth of the American population is financially eligible for free legal services, near an all-time high, but that as the need has increased, funding available per financially eligible person, adjusted for inflation, has decreased.

Due to the reduction in funding and the increase in demand for assistance, Mr. Sandman explained that the rate at which civil legal aid providers turn financially eligible individuals away is significant and increasing. As a result, a large number of people appear in court *pro se*, meaning without legal representation. He stated that there are no reliable national statistics on the number of unrepresented civil litigants, but that it is common for more than 95 percent of tenants to have no lawyer in an eviction case and for defendants in foreclosure cases and parties in child support cases to have no lawyer, while the opposing party in each type of case is represented by a lawyer. Mr. Sandman suggested the following three avenues for addressing the need for civil legal services: increasing funding for these services; maximizing the contributions of the private bar; and exploring creative uses of technology.

To illustrate the issues stemming from *pro se* litigation, **The Honorable Paul Van Grunsven, Judge, Milwaukee County Circuit Court**, described the obstacles that *pro se* litigants face during each stage of a family court proceeding. He explained that *pro se* litigants are unlikely to be familiar with relevant law and the significant and technical procedural requirements, which impairs the efficiency of the legal process and burdens judges whose ability to provide assistance is limited. As an example, Judge Van Grunsven stated that legal representation is especially important in cases involving children's issues, which require familiarity with statutorily required elements and procedures to assist the judge in doing what is in the child's best interest.

**The Honorable Mike Skwierawski, Retired Chief Judge, Milwaukee County Circuit Court**, provided some background on the Milwaukee Justice Center (MJC), describing how it was formed and explaining that it is operated by three main stakeholders: Milwaukee County; the Milwaukee Bar Association; and Marquette Law School. Judge Skwierawski explained that MJC serves over 10,000 people every year. He believes that the MJC is a model public/private partnership and a good example of how various stakeholders and the private bar can come together to help address the needs of people who cannot afford to pay for the legal assistance that they need.

Following these presentations, committee members requested that the committee explore how mediation programs, such as the Winnebago County mediation program, could be used in other counties. Chair Horlacher directed committee staff to prepare an options paper on this topic. A number of committee members also suggested that the committee focus on identifying possible funding sources for civil legal services and asked for information about current court fees and possible sources of funding from federal block grants. Chair Horlacher directed committee staff to prepare this information for the committee's next meeting.

The November 14, 2016 meeting began with a presentation by **Jill Karofsky, Director, Office of Crime Victims Services, Wisconsin DOJ**, who told the committee about the legal needs of crime victims, the importance of ensuring they receive legal help, and the lack of legal assistance generally available to crime victims. Ms. Karofsky also told the committee that the federal Victims of Crime Act (VOCA) includes a grant program under which states receive federal funding to be distributed to sub-grantees for the purpose of supporting crime victim services, which can include providing legal assistance to crime victims. The grant is not taxpayer funded, but is instead funded through criminal fines, forfeited bail bonds, penalty fees, and special assessments imposed upon federal criminals. Ms. Karofsky suggested that one way Wisconsin might use VOCA funds to expand crime victims' access to legal services could be to establish a legal clinic, perhaps within a law school, to deliver legal services to crime victims and train law students on the needs of crime victims.

Next, **Karen Lash, Deputy Director, Office for Access to Justice, U.S. DOJ**, provided an overview of the U.S. DOJ Office for Access to Justice and the Legal Aid Interagency Roundtable (LAIR), and told the committee that LAIR was established to encourage federal agencies to view civil legal aid as a tool that furthers the purposes of federal programs and improves the effectiveness and efficiency of these programs. Ms. Lash then highlighted several federal block grants that permit, but do not require, recipients to allocate funds to civil legal aid, including: (a) VOCA; (b) Temporary Assistance for Needy Families (TANF); (c) Community Development Block Grant (CDBG); (d) Services, Training, Officers, and Prosecutors (STOP) Violence Against Women; and (e) 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.

Chair Horlacher led committee discussion, beginning with 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. 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 then discussed a letter submitted by public members James Gramling and Judge Glenn Yamahiro. The letter contained several recommendations and suggestions for action that the committee could consider.

Following the presentations and discussion of the letter, committee staff were directed to draft a bill authorizing and encouraging state agencies to allocate federal grant money they administer to civil legal aid, if permitted by federal law.

The committee also directed committee staff to prepare draft recommendations regarding several topics, based on suggestions contained in the letter submitted by public members and subsequent committee discussion, including the following:

- Evaluating the benefits of appointed counsel in civil cases implicating certain human needs;
- Improving access to legal information through technology, such as expanding the availability of fillable court forms;
- Expanding the use of mediation as an alternative to the court system throughout the state;
- Requesting that DVA make space available within the veterans homes the department operates for legal aid providers to provide legal services to veterans;
- Encouraging the State Bar and Supreme Court to continue to collaborate on innovative ways to incentivize pro bono work; and
- Requesting a study of the economic impact of civil legal aid in Wisconsin.

The December 19, 2016 meeting began with a presentation by **John Gentry, Fiscal Analyst, Mike Steinschneider, Fiscal Analyst, and Rob Reinhart, Program Supervisor, Legislative Fiscal Bureau**, in response to the committee's interest in learning more about federal block grant money the state currently receives, particularly the state's TANF grant. Mr. Gentry, Mr. Steinshneider, and Mr. Reinhart explained how TANF funds are currently allocated, and provided additional detail about the expenditures and account balances outlined in the memorandum they prepared for Chair Horlacher.

Next, the committee discussed LRB-0968/P2, relating to establishing a crime victims legal clinic at the UW Law School. Chair Horlacher invited **Jill Karofsky, Executive Director of the Office of Crime Victim Services, DOJ, and Carrie Sperling, Associate Dean for Experiential Learning and Education Innovation, UW Law School**, to answer questions from the committee about, and provide their thoughts on, the bill draft. Ms. Karofsky and Ms. Sperling expressed to the committee that establishing a legal program devoted to crime victims' legal needs might be better accomplished through the collaboration of their respective organizations rather than through legislation. The committee therefore decided not to vote on the bill draft, but requested that committee staff instead draft language, in consultation with Ms. Karofsky and Ms. Sperling, that the committee could vote on as a recommendation.

The committee then heard a presentation from **Leon Creary, staff for Representative Frederick Kessler**, on LRB-0882/1, a bill draft authored by Representative Kessler that would authorize a full-time district attorney, deputy district attorney, or assistant district attorney to provide legal services to a person of limited means or to a charitable, religious, civic, community,

governmental, or educational organization if the attorney provides the services without fee and the services are not in conflict with the interests of the district attorney's county. The committee voted to recommend the bill draft. However, the committee also requested that committee staff prepare language for a recommendation encouraging the Legislature expand the categories of publicly employed attorneys, beyond those mentioned in the bill draft, who may provide pro bono civil legal services.

Next, the committee reviewed LRB-0982/P2, relating to the authority of the DCF, DOJ, and DHS, to allocate federal grant money for civil legal aid. The committee requested modifications to the bill draft and approved the bill draft as modified.

The committee also requested and voted on the substance of a bill draft that would create an interagency legal aid coordinating council for the purpose of facilitating discussion among various state agencies about how improving access to civil legal services may fit into, serve, or further the missions, responsibilities, and goals of the agencies.

In addition, the committee reviewed and approved recommendations relating to the following topics:

- Department of Veterans Affairs facilities.
- Mediation.
- Technology to improve access to legal information and the court system.
- Pro bono services and limited scope representation.
- Crime victims legal program.
- Publicly employed pro bono civil legal service.

Finally, committee members discussed recommending that the Legislature include funding from the state's TANF block grant for civil legal services in the 2017-19 Biennial Budget. Specifically, committee members discussed recommending that the Legislature appropriate \$1,000,000 per year in the next biennium from TANF funds for the provision of civil legal aid, and recommending that the 2015-17 \$500,000 per year civil legal aid to certain victims of abuse be continued, and an additional \$500,000 per year be provided for a broader range of civil legal services. Various committee members expressed an interest in making this recommendation to the Legislature, but consensus was not reached on the issue.

# PART III

## RECOMMENDATIONS FOR INTRODUCTION BY THE JOINT LEGISLATIVE COUNCIL

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### **LRB-2006/1, RELATING TO ALLOWING DISTRICT ATTORNEYS, DEPUTY DISTRICT ATTORNEYS, AND ASSISTANT DISTRICT ATTORNEYS TO ENGAGE IN THE PRIVATE PRACTICE OF LAW FOR CERTAIN CIVIL PURPOSES**

#### **Background**

Under current law, full-time district attorneys, deputy district attorneys, and assistant district attorneys are generally prohibited from engaging in the private practice of law, except that they may complete a civil case in which he or she was involved as counsel prior to taking office, as long as doing so does not create a conflict of interest with the prosecutorial unit of the county or counties. This means that full-time district attorneys, deputy district attorneys, and assistant district attorneys may not provide pro bono civil legal services while in office.

#### **Description**

LRB-2006/1 authorizes a full-time district attorney, deputy district attorney, or assistant district attorney to provide legal services to a person of limited means or to a charitable, religious, civic, community, governmental, or educational organization if the attorney provides the services without fee and the services are not in conflict with the interests of the district attorney's county.

### **LRB-0982/1, RELATING TO THE AUTHORITY OF THE DEPARTMENTS OF ADMINISTRATION, CHILDREN AND FAMILIES, WORKFORCE DEVELOPMENT, JUSTICE, AND HEALTH SERVICES TO ALLOCATE FEDERAL GRANT MONEY FOR CIVIL LEGAL AID**

#### **Background**

The federal government awards block grants in support of broadly defined programs. Usually, these grants are made to states, which then have broad discretion to choose how to spend the money within the eligibility and purpose requirements established by the federal government. Certain federal grants may be used for the provision of civil legal services for various populations or purposes.

In the 2015-17 Biennial Budget, the Wisconsin Legislature appropriated \$1,000,000 (\$500,000 in each fiscal year) from the state's TANF block grant to the Wisconsin Trust Account Foundation (WisTAF) to make annual awards to programs that provide legal services to TANF-eligible persons whose gross incomes are at or below 200 percent of the poverty line. These grants were capped at \$75,000 per organization per year and may be used only to provide legal services

in matters related to domestic abuse, sexual abuse, and restraining orders or injunctions for individuals at risk. In prior budgets, the Legislature has also allocated funds from the state's TANF grant for civil legal services. The 1999-2001 Biennial Budget created a statutory provision requiring DCF to distribute to WisTAF an amount equal to the amount received by WisTAF from private donations, up to \$100,000 in each fiscal year, from the state's TANF block grant for legal services to TANF-eligible individuals. The Legislature has not included an appropriation for this matching grant since the 2001-03 Biennial Budget.

Wisconsin also issues subgrants from the federal VOCA grant to the state to provide funds for certain civil legal services. Wisconsin's VOCA grant is administered by DOJ, Office of Crime Victim Services (OCVS). OCVS issues grants using VOCA funds to subgrantees on a competitive basis. In the 2015-16 award year, OCVS awarded 82 VOCA grants, totaling \$7,865,854. Among these awards were two to Legal Action of Wisconsin for various victim-related legal service programs.

### **Description**

LRB-0982/1 establishes a legislative recognition that the difficulty low-income, indigent, vulnerable, and at-risk populations face in fulfilling basic human needs may be caused or compounded by lack of access to civil legal services and that providing these populations with free or reduced-fee civil legal services to fulfill these needs can be an effective way to reduce the dependence of members of these populations on public assistance or other government programs. The bill draft encourages, but does not require, DOA, DHS, DCF, DWD, and DOJ to allocate, to the extent authorized by federal law, any federal block grant money they administer and that is intended to benefit low-income, indigent, vulnerable, or at-risk populations for the purpose of providing civil legal aid to qualified individuals.

## **LRB-1263/1, RELATING TO THE CREATION OF THE INTERAGENCY LEGAL AID COORDINATING COUNCIL**

### **Background**

The U.S. DOJ and the White House Domestic Policy Council established the LAIR, which is staffed by the U.S. DOJ Office for Access to Justice. LAIR brought together 22 federal agencies to raise awareness about: (a) how the provision of civil legal aid can serve or advance federal policy objectives and goals; and (b) how providing legal assistance to low-income individuals can produce economic benefits, primarily in the form of avoided costs resulting from future harm or future need for public assistance that may be halted by legal intervention. The LAIR member agencies have collaborated with each other and have worked with other civil legal aid providers, including nonprofit organizations and the private bar, to identify areas in which legal services can advance federal program objectives. They have also inserted language into several grant and project documents permitting the use of funds for civil legal services, where appropriate, and have worked to education federal grantees about the value of collaborating with civil legal aid providers. Finally, LAIR member agencies have funded or conducted research evaluating the impact and results of funding civil legal services.

## Description

LRB-1263/1 creates a council, consisting of the following members: (a) the Secretaries of the DOA, DCF, DHS, and DWD or their designees; (b) the Attorney General, or his or her designee; (c) the Executive Director of Wisconsin Judicare, Inc.; (d) the Executive Director of Legal Action of Wisconsin, Inc.; (e) one member, appointed by the Governor, who is also a member of the Wisconsin Access to Justice Commission; and (f) two additional members who represent the public interest, appointed by the Governor. The purpose of the council is to, on an ongoing basis, evaluate the following: (a) how providing low-income, indigent, vulnerable, and at-risk populations with access to civil legal services may fit into, serve, or further the missions, responsibilities, and goals of the agencies; and (b) the use or potential use of federal grant money received by the agencies that may be used for the purpose of facilitating access to civil legal services for such populations. The council would be required to report, annually, to the Legislature, Governor, and Supreme Court. The council would also be responsible for preparing, on a one-time basis, a report on the economic impact of providing funding to improve access to civil legal services.



## COMMITTEE AND JOINT LEGISLATIVE COUNCIL VOTES

The following drafts were recommended by the Study Committee on Access to Civil Legal Services.

### STUDY COMMITTEE VOTE

The Study Committee voted on December 19, 2016 to recommend the following draft to the Joint Legislative Council for introduction in the 2017-18 Session of the Legislature. The vote on the draft was as follows:

- **LRB-2006/1**, relating to allowing district attorneys, deputy district attorneys, and assistant district attorneys to engage in the private practice of law for certain civil purposes, passed by a vote of Ayes, 14 (Reps. Horlacher, Ballweg, Stuck, and Subeck; Sens. Stroebel and Wirch; and Public Members Gramling, Haas, Moore, Pifer, Prosser, Rust, Wochos, and Yamahiro); Noes, 0; and Absent, 2 (Public Members Boyd and Esenberg).

The Study Committee voted by a January 11, 2017 mail ballot, to recommend the following drafts to the Joint Legislative Council for introduction in the 2017-18 Session of the Legislature. The vote on the drafts was as follows:

- **LRB-0982/1**, relating to the authority of the departments of administration, children and families, workforce development, justice, and health services to allocate federal grant money for civil legal aid, passed by a vote of Ayes, 15 (Reps. Horlacher, Ballweg, Stuck, and Subeck; Sens. Stroebel and Wirch; and Public Members Boyd, Gramling, Haas, Moore, Pifer, Prosser, Rust, Wochos, and Yamahiro); and Noes, 1 (Public Member Esenberg).
- **LRB-1263/1**, relating to the creation of the Interagency Legal Aid Coordinating Council, passed by a vote of Ayes, 15 (Reps. Horlacher, Ballweg, Stuck, and Subeck; Sen. Wirch; and Public Members Boyd, Esenberg, Gramling, Haas, Moore, Pifer, Prosser, Rust, Wochos, and Yamahiro); and Noes, 1 (Sen. Stroebel).



## JOINT LEGISLATIVE COUNCIL

<u>SENATE MEMBERS</u>	<u>ASSEMBLY MEMBERS</u>
<b>Roger Roth, Co-Chair</b> Senate President Appleton	<b>Robert Brooks, Co-Chair</b> Assistant Majority Leader Saukville
<b>Alberta Darling</b> JFC Co-Chair River Hills	<b>Tyler August</b> Speaker Pro Tempore Lake Geneva
<b>Scott Fitzgerald</b> Majority Leader Juneau	<b>Joan Ballweg</b> Markesan
<b>Howard Marklein</b> President Pro Tempore Spring Green	<b>Peter Barca</b> Minority Leader Kenosha
<b>Mark Miller</b> Monona	<b>Dianne Hesselbein</b> Assistant Minority Leader Middleton
<b>Terry Moulton</b> Chippewa Falls	<b>Gordon Hintz</b> JFC Ranking Minority Oshkosh
<b>Jerry Petrowski</b> Marathon	<b>Cory Mason</b> Racine
<b>Fred A. Risser</b> Madison	<b>John Nygren</b> JFC Co-Chair Marinette
<b>Jennifer Shilling</b> Minority Leader La Crosse	<b>John Spiros</b> Marshfield
<b>Lena Taylor</b> JFC Ranking Minority Milwaukee	<b>Jim Steineke</b> Majority Leader Kaukauna
<b>Van Wanggaard</b> Racine	<b>Robin Vos</b> Speaker Rochester

This 22-member committee consists of the majority and minority party leadership of both houses of the Legislature, the co-chairs and ranking minority members of the Joint Committee on Finance, and 5 Senators and 5 Representatives appointed as are members of standing committees.

Terry C. Anderson, Director, Legislative Council Staff, 1 East Main Street, Suite 401, Madison, WI 53703-3382



## COMMITTEE LIST

### Joint Legislative Council Study Committee on Access to Civil Legal Services

**Chair Cody Horlacher**, Representative  
1254 Bear Pass #7  
Mukwonago, WI 53149

**Joan Ballweg**, Representative  
170 W. Summit St.  
Markesan, WI 53946

**Rick Esenberg**, President and General Counsel  
Wisconsin Institute for Law & Liberty, Inc.  
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**Kimberly Haas**, Executive Director  
Wisconsin Judicare  
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Wausau, WI 54403

**David Pifer**, Executive Director  
Legal Action of Wisconsin  
230 West Wells Street  
Room 800  
Milwaukee, WI 53203

**Michael Rust**, Executive Director  
Winnebago Conflict Resolution Center, Inc.  
415 Jackson St., Suite 412  
Oshkosh, WI 54901

**Lisa Subeck**, Representative  
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**Amy Wochos**, Legal Counsel/Senior Administrator  
Milwaukee County Clerk of Circuit Court  
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Milwaukee, WI 53233

**Vice Chair Duey Stroebel**, Senator  
2428 Covered Bridge Road  
Saukville, WI 53080

**Erin Boyd**, Associate Attorney  
Sterling Law Offices, S.C.  
2606 Crest lane, Apt. 304  
Waukesha, WI 53188

**James Gramling**, President  
Wisconsin Access to Justice Commission  
P.O. Box 7158  
Madison, WI 53707

**Gregg Moore**, Chair  
Eau Claire County Board  
428 E. Tyler Ave.  
Eau Claire, WI 54701

**David Prosser**  
57 Golf Course Road, Unit F  
Madison, WI 53704

**Amanda Stuck**, Representative  
1404 N. Harriman St.  
Appleton, WI 54911

**Robert Wirch**, Senator  
979 Wood Road #104  
Kenosha, WI 53144

**Glenn Yamahiro**, Judge  
Milwaukee County Courthouse  
901 N. 9th Street  
Room 402  
Milwaukee, WI 53233

**STUDY ASSIGNMENT:** The Study Committee is directed to review the funding and delivery of legal services for the indigent in civil cases. The committee shall: (1) review the need for legal services by indigent civil litigants; (2) identify additional non-GPR sources of revenue to provide civil legal services for the indigent; and (3) review current operations.

**16 MEMBERS:** 4 Representatives; 2 Senators; and 10 Public Members.

**LEGISLATIVE COUNCIL STAFF:** David Moore, Senior Staff Attorney, Rachel Snyder, Staff Attorney, and Kelly Mautz, Miranda Machgan, Support Staff.



## COMMITTEE MATERIALS LIST

*[Copies of documents are available at [www.legis.wisconsin.gov/lc/](http://www.legis.wisconsin.gov/lc/)]*

### July 27, 2016 Meeting

- Presentation, Wisconsin Study Committee on Access to Civil Legal Services, by April Faith-Slaker, Director, ABA Resource Center for Access to Justice Initiatives (July 27, 2016)
- Presentation, Civil Legal Services in Wisconsin, by Jeff Brown, Pro Bono Program Manager, State Bar of Wisconsin (July 27, 2016)
- Testimony of Daniel Idzikowski, Executive Director of Disability Rights Wisconsin (July 27, 2016)
- Presentation, Disability Rights Wisconsin, by Daniel Idzikowski, Executive Director of Disability Rights Wisconsin (July 27, 2016)
- Presentation, GWAAR Elder Law & Advocacy Center, by Attorney Kate Schilling (July 27, 2016)
- Handout, Elder Benefit Specialist (EBS) Program Services CY 2013 Summary Report, by Attorney Kate Schilling, GWAAR Elder Law & Advocacy Center (July 27, 2016)
- Memo No. 1, State Bar of Wisconsin and Wisconsin Access to Justice Commission Reports on Access to Civil Legal Services (July 13, 2016)
- Attachment, Bridging the Justice Gap: Wisconsin's Unmet Legal Needs, Final Report, Access to Justice Committee, State Bar of Wisconsin (March 2007)
- Attachment, The State of Equal Justice in Wisconsin, A Report from The Wisconsin Access to Justice Commission (September 2013)
- Staff Brief 2016-03, Access to Civil Legal Services (July 13, 2016)
- Minutes of the July 27, 2016 meeting

### September 14, 2016 Meeting

- Presentation, Wisconsin Study Committee on Access to Civil Legal Services, by James J. Sandman, President, Legal Services Corporation (September 14, 2016)
- Presentation by Judge Paul Van Grunsven, Milwaukee County Circuit Court
- Presentation, Civil Legal Services for Veterans, by Attorney Jill Kastner, Supportive Services for Veteran Families Program, Legal Action of Wisconsin (September 14, 2016)
- Information for the committee from Public Member Gregg Moore
- Letter from Adam Plotkin, Legislative Liaison, Office of the State Public Defender, to Representative Cody Horlacher, Chair, Study Committee on Access to Civil Legal Services (August 11, 2016)

- Letter from Gretchen Schuldt, Executive Director, Wisconsin Justice Initiative, to Representative Cody Horlacher, Chair, Study Committee on Access to Civil Legal Services (September 12, 2016)
- Report and Recommendations of the Supreme Court of Ohio, Task Force on Access to Justice (March 2015)
- Memo No. 2, Information in Response to Requests Made at the July 27, 2016 Meeting (September 7, 2016)
- Minutes of the September 14, 2016 meeting

### **November 14, 2016**

- Presentation, Wisconsin's History and the Crime Victims Rights Movement, by Jill J. Karofsky, Executive Director, Office of Crime Victim Services, Wisconsin Department of Justice (November 14, 2016)
- Presentation, How Federal Block Grants Can Support Civil Legal Services, by Karen Lash, Deputy Director, Office for Access to Justice, U.S. Department of Justice (November 14, 2016)
- Letter to the committee from public members The Honorable Glenn Yamahiro and Jim Gramling (November 4, 2016)
- Article, Judicare at 50: Wausau Legal Center a Bedrock in 33 Northern Counties, State Bar of Wisconsin, distributed at the request of public member former Justice David Prosser (October 8, 2016)
- Memo No. 3, Use of Federal Block Grants to Fund Civil Legal Services (November 7, 2016)
- Memo No. 4, Options for Expanding the Use of Mediation (November 7, 2016)
- Memo No. 5, Wisconsin Circuit Court Fees, Forfeitures, Fines, and Surcharges (November 7, 2016)
- Minutes of the November 14, 2016 meeting

### **December 19, 2016 Meeting**

- LRB-0882/1, relating to allowing district attorneys, deputy district attorneys, and assistant district attorneys to engage in the private practice of law for certain civil purposes [LRB-0882/1 subsequently became LRB-2006/1]
- LRB-0968/P2, relating to establishing a crime victims legal clinic at the University of Wisconsin Law School
- LRB-0982/P2, relating to the authority of the Department of Children and Families, Department of Justice, and Department of Health Services to allocate federal grant money for civil legal aid
- Handout, Using Mediation in Legal Custody & Physical Placement Disputes, distributed by Representative Joan Ballweg (December 19, 2016)

- Memorandum, Opposition to earmark funding in LRB 1968 - Establishing a victims legal clinic at the University of Wisconsin Law School, by Mike Austin, Government Affairs Director, Wisconsin Department of Justice (December 19, 2016)
- Email from Ann Olson, Policy Analyst, Office of Court Operations (November 9, 2015)
- Memorandum, LRB-0882/1 - Allowing DAs, DDAs, and ADAs to do pro bono legal work, by Representative Frederick P. Kessler (December 19, 2016)
- Memorandum, requested by Representative Cody Horlacher, Chair, Study Committee on Access to Civil Legal Services, Regarding the Federal Grants Identified in the U.S. Department of Justice Presentation to the Legislative Council Study Committee on Access to Civil Legal Services, by the Legislative Fiscal Bureau (December 13, 2016)
- Draft Recommendation -- Crime Victims Legal Program
- Draft Recommendation -- Mediation
- Draft Recommendation -- Pro Bono Services and Limited Scope Representation
- Draft Recommendation -- Publicly Employed Attorney Pro Bono Civil Legal Service
- Draft Recommendation -- Technology to Improve Access to Legal Information and the Court System
- Draft Recommendation -- Veterans Affairs Facilities
- Draft Recommendation -- Wisconsin Study of the Economic Impact of Civil Legal Aid

### **January 11, 2017 Mail Ballot**

- LRB-0982/1, relating to the authority of the departments of administration, children and families, workforce development, justice, and health services to allocate federal grant money for civil legal aid
- LRB-1263/1, relating to the creation of the Interagency Legal Aid Coordinating Council
- Mail Ballot
- Results of Mail Ballot