

November 4, 2016

Members, Legislative Study Committee on Access to Civil Legal Aid:

Representative Horlacher, Senator Stroebel, and distinguished members of this Committee, thank you for the opportunity to work with you to increase access to justice for all of Wisconsin's residents, and particularly for Wisconsin's lowest-income residents.

The charge of this Study Committee is summed up in our scope statement:

*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.*

Our first two meetings have been filled with excellent testimony that has served to fulfill the first part of our assigned charge. We have heard from diverse and well-respected sources about the critical importance of civil legal aid as a tool to assist vulnerable Wisconsinites. Testimony and materials provided to us have also clearly demonstrated the tremendous unmet need for legal assistance in civil legal matters in our state. Though the scope of the problem may seem overwhelming, it is apparent that this Committee's collaborative, creative work can in fact make a difference for Wisconsin residents, including our state's veterans and their families, survivors of domestic violence and sexual assault, individuals with disabilities and their families, seniors, and those families struggling economically.

In an effort to focus our conversation at our November meeting, and to address the second part of the above scope statement, we are submitting the following recommendations. It is our hope that these recommendations will be discussed and acted upon at our upcoming November meeting.

It must be noted that, given the unmet need, a truly robust package of recommendations would include direct appropriations for indigent civil legal aid (as is done in the majority of other states). However, operating within the charge given to this Committee, we are therefore offering recommendations that do not necessarily rely on GPR, but instead for the most part leverage and utilize existing systems and existing funding to increase access to justice for Wisconsin's most vulnerable populations. We believe the below recommendations represent the most promising sources of "additional non-GPR sources of revenue to provide civil legal services for the indigent" and we look forward to a discussion of these ideas on November 14<sup>th</sup>:

- 1. Direct a Small Percentage of TANF Surplus to Civil Legal Aid:** The Temporary Assistance for Needy Families (TANF) program is designed to help low-income families achieve self-sufficiency. Often, a barrier to those families' path out of poverty is addressing their civil legal needs, such as helping the families prevent/avoid homelessness, restoring suspended driver's licenses so they can drive to work or school, modifying child support orders, resolving child custody disputes, escaping domestic violence and sexual assault, applying for disability benefits, and addressing consumer fraud and debt collection. The federal agency which oversees TANF funding has made clear that states may use TANF funds to help eligible families resolve a wide array of civil legal problems. We recommend that the Wisconsin Department of Children & Families (DCF) be directed to appropriate just 10% of its TANF surplus annually towards meeting the civil legal needs of Wisconsin's TANF-eligible families.
- 2. Ensure That Civil Legal Aid is Included In Other State Block Grant Funding:** Many of Wisconsin's state agencies utilize and distribute federal grants (TANF, CDBG, CSBG, VOCA, SSBG, etc.) to meet the needs of Wisconsin's most vulnerable populations, including, but not limited to: survivors of domestic violence & sexual assault, veterans, homeless or at risk of homeless individuals and families, adults & children with disabilities as well as their caregivers, low-income job seekers, seniors, and those re-entering communities after incarceration. Often, while these federal grants may allow for funding to be spent on meeting the civil legal needs of those populations, state grant makers do not typically solicit or allow proposals to address the civil legal needs of those populations when disbursing these federal funds. We recommend that all state agencies that receive and disburse federal block or formula grant funds aimed at assisting low-income and vulnerable populations be directed to simply include indigent civil legal aid as a permissible and prioritized use of these funds.
- 3. Recommend DVA Provide On-Site Legal Aid For Veterans:** In 2012, the federal Department of Veterans Affairs issued a policy guidance to all VA hospitals/facilities nationwide, encouraging them to make space available and to collaborate with legal aid providers on site to meet the civil legal needs of veterans and their families. Many other states have taken that federal guidance to heart and set up multiple locations for veterans to get free legal help at VA facilities; Wisconsin has trailed behind. We recommend that Wisconsin's Department of Veterans Affairs be directed to establish and fund these on-site collaborations to address veterans' (and their families') civil legal needs.
- 4. Evaluate Opportunities for Expanding Mediation:** Mediation presents the opportunity to simplify the judicial process for self-represented litigants in non-complex matters. Anecdotal evidence indicates that mediation reduces the cost to the court system and streamlines the process for people in certain evictions and small claim cases. We

recommend that the court system be directed to study and evaluate possibilities for expanding mediation opportunities, particularly in substantive law areas where there are significant numbers of self-represented litigants, and seek funding for mediation expansions.

5. **Evaluate the Benefits of Appointed Counsel in Critical Civil Cases:** The loss of custody in contested family matters, and homelessness resulting from eviction are extremely disruptive events in a family's life. Representation assures that the loss of custody of a person's children or an eviction does not occur unless the requirements of state law are met and all relevant facts have been considered by the court. Both have huge societal costs. Anecdotal evidence from other states indicates that representation is critical to ensuring that fairness occurs. We recommend that the Supreme Court implement an appointed counsel pilot project for the purpose of evaluating the benefits of appointed counsel in critical civil cases, and that funding be provided to the Court in the 2017-2019 budget to do so.
  
6. **Implement Technology That Will Improve Access to Legal Information and the Courts:** Technology is rapidly changing the courts. By the middle of 2017 e-filing of all legal documents will be mandatory, and this will add a new obstacle to access for people who don't have lawyers. The obstacles will grow as courts become totally paperless without paper court files. The obstacles for self-represented litigants can be mitigated by the creation of fillable forms that simplify and standardize mandatory pleadings, motions and discovery documents in areas with a high number of self-represented litigants, such as family and small claims court. The creation of standardized fillable forms will have the added benefit of improving court efficiency by decreasing the need for multiple hearings resulting from errors in forms. These forms would be evaluated for ease of comprehension and would be designed for use in all 72 counties. Wisconsin should also consider development of a smartphone app which would allow residents to access information and support from a mobile platform. We recommend that the creation of an app and fillable forms that can be e-filed be a priority for the courts once e-filing is fully implemented, and that funding be included to the courts in 2017-19 biennial budget to do so.
  
7. **Request Study of Economic Impact of Civil Legal Aid in Wisconsin:** Many states have conducted rigorous studies and evaluations of the economic cost benefits of civil legal aid. These studies have helped the public and decision makers see that the value of legal aid reaches far beyond the clients served, and has positive economic impacts on neighborhoods and communities. We recommend that the 2017-19 biennial state budget direct an appropriate state agency, in partnership with resources available at University of Wisconsin research facilities, to conduct such an economic analysis.

We hope our November meeting can include ample time to discuss these items, as well as other specific proposals other committee members might have.

Thank you again for your commitment to increase Wisconsin's residents' access to justice.

Sincerely,

Hon. Glenn Yamahiro

Milwaukee County Circuit Court

Jim Gramling, President

Wisconsin Access to Justice Commission