

Access to Justice Headlines 2007-2008

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Access to Justice Commissions

- **Hawaii Access to Justice Commission.** On April 24, 2008, the Supreme Court of Hawaii ordered the creation of the Hawaii Access to Justice Commission. Creation of the Commission was on the recommendations of the report released in November 2007 by the state's Access to Justice Hui (see below).
- **Maryland Access to Justice Commission.** The Maryland Court of Appeals has ordered the creation of the Maryland Access to Justice Commission. The new Commission will be chaired by Judge Irma Raker, who recently retired from the Court of Appeals. Creation of the Commission was one of the recommendations of the report issued in August 2007 by the Maryland Judiciary Working Group on Self-Representation.
- **South Carolina Access to Justice Commission.** The South Carolina Access to Justice Commission, chaired by Chief Justice Jean Hoefer Toal, met for the first time in September 2007. Mississippi Supreme Court Justice Jess Dickinson was guest speaker. The Commission has hired a full time Executive Director and has launched a number of projects, including a series of hearings around the state and initiatives relating to support for self-represented litigants, all described below.
- **Into their Second Year: Alabama, New Hampshire, Utah.** Early 2007 saw the first meetings of the Alabama Access to Justice Commission, the New Hampshire Access to Justice Commission, and the Utah Access to Justice Council. All have established active committees and are moving forward on a variety of issues.
- **Pending Proposals in West Virginia and Wisconsin.** A proposal for the creation of an Access to Justice Commission is pending before the Supreme Court of West Virginia. In Wisconsin, a draft petition to establish an Access to Justice Commission will be submitted to the Board of Governors of the Wisconsin State Bar in June 2008. Creation of a Commission was one of the recommendations of the report issued by the Bar's Access to Justice Study Commission in March 2007, and has already been endorsed in principle by the Board of Governors.

- **Extension of District of Columbia Access to Justice Commission.** The Court of Appeals of the District of Columbia has extended the term of the District of Columbia Access to Justice Commission indefinitely. The Commission was created in February 2005 for an initial term of three years.

System-Wide Planning Processes, Reports and Events

- **California Action Plan and Symposium on the Future of Access to Justice.** The California Access to Justice Commission celebrated its 10th anniversary on April 23, 2008, with a symposium on *The Future of Access to Justice in California: Developing a Vision for the Next Decade*. The symposium considered alternative scenarios for increasing the percentage of individuals helped, the changing role of the courts, and the prospect of a civil right to counsel in limited cases. In 2007, the Access to Justice Commission issued an *Action Plan for Justice*, designed to assist institutions with responsibilities for ensuring access to a just and equitable system in bridging the “justice gap” faced by low-income people. It contains 27 recommendations on ways to increase funding, expand pro bono efforts, improve assistance for self-represented litigants, and expand court interpreter services for those facing language barriers in civil cases, among other goals.
- **Colorado Access to Justice Hearings and Report.** In March 2008, the Colorado Access to Justice Commission delivered a report, *The Justice Crisis in Colorado*, to the Colorado Legislature, Supreme Court, Governor's Office, and Bar Association Board of Governors. The report was based upon the findings of a series of ten hearings held around the state during the fall of 2007 and convened by the Commission. The final hearing took place at the Supreme Court in Denver on November 14. Local Access to Justice Committees played a major role in organizing and publicizing the hearings and identifying witnesses, who included judges, legal aid providers, clients, self-represented litigants, attorneys, and social service providers. Panelists included state legislators, Supreme Court and Court of Appeals judges, district and county court judges, representatives of the U.S. Congressional delegation, and representatives of the Governor's Office.
- **Maine Long-Term Planning Report.** In October 2007, Maine's Justice Action Group issued *Justice for All*, a final report setting out the recommendations resulting from the broad-based, long-term planning process convened by the JAG. Priority strategies identified were: an increased state appropriation for legal aid; implementation of mandatory IOLTA with interest rate comparability (*adopted September 2007; see below*); creation of a Division of Self-Represented Litigant Services within the Judicial Branch, to oversee a Courthouse Assistance Program; creation of a Legal Aid Technology Resources Center; and study of a civil right to counsel in adversarial proceedings where basic human needs are at stake. The report also identifies ten strategies that require little or no new funding. The planning initiative was launched in March 2006 with the support and participation of Chief Justice Leigh Saufley, and was chaired by former University of Maine Law School Dean Colleen Khoury. More than 100 individuals from around the state participated in seven work groups: reducing the need for crisis intervention; ensuring a consumer-friendly system; assisting self-represented litigants; utilizing lawyers to expand access to justice; expanding resources; sustaining and ensuring quality; and promoting leadership. The Justice Action Group has now begun to oversee implementation of the plan's recommendations. Already underway are creation of a Self-Represented Litigation Task Force, under the auspices of the court system; creation of a Pro Bono Task Force, under the auspices of the Maine State Bar Association; planning for a biennial Access to Justice Symposium, to be organized by the University of Maine School of Law; and creation of a Technology Task Force, with leadership shared by the court system and Pine Tree Legal Assistance. Planning for other initiatives is ongoing.

- **Massachusetts Hearings, Report and Recommendations.** The Massachusetts Access to Justice Commission, chaired by former Chief Justice Herbert Wilkins, issued its report to the Supreme Judicial Court on *Barriers to Access to Justice in Massachusetts* in the fall of 2007. The report is based on a series of hearings held by the Commission around the state on barriers to civil justice and strategies for addressing them, culminating in a final hearing attended by Chief Justice Margaret Marshall and other members of the Supreme Judicial Court on April 6, 2007, in Boston. Recommendations include the following: funding for civil legal aid should be increased; the Legislature and Supreme Judicial Court should take steps to have counsel available to low-income people in critical circumstances, such as court hearings in eviction cases; trained non-lawyers should be permitted to appear in court in such cases as evictions and domestic violence hearings; courthouse assistance should be provided in all family and probate courts and courts hearing eviction cases; uniform, user-friendly statewide forms should be developed and made available on the internet; a position of coordinator of Access to Justice activities in the trial courts should be created; differing practices from court to court in domestic violence cases should be studied and consistency improved; and the jurisdiction of Housing Court should be extended state-wide and its best practices should be duplicated in all courts hearing evictions.
- **Hawaii Legal Needs Study and Recommendations.** *Achieving Access to Justice for Hawaii's People*, a report released in November 2007 by the state's Access to Justice Hui, found that almost 80 percent of the legal needs of low and moderate income residents of Hawaii are going unmet. The report sets out ten recommendations to increase access by 2010, including: increased funding for legal aid; expanded support for self-represented litigants; establishment of a right to counsel where basic human needs are at stake; promotion of a culture that values the provision of pro bono services; and creation of an Access to Justice Commission (*ordered April 2008*). In an address to the State Bar Association, Chief Justice Ronald Moon commended the Access to Justice Hui, which included representatives of the Hawaii Judiciary, State Bar Association, Justice Foundation, legal aid providers, and the University of Hawaii, and stated that the Supreme Court and judiciary as a whole had begun exploring the report's recommendations. Chief Justice Moon urged the Bar Association and law firms to do so as well.
- **Arizona Legal Needs Study and Action Plan.** *Voicing a Need for Justice, a Report on Legal Aid Access*, by the Arizona Foundation for Legal Services and Education, was released on January 31, 2008. The report, based on a survey of more than 1000 Arizonans conducted by Fieldwork Quant Group in Chicago, found that a majority of low- and moderate-income respondents believed they could not afford a private attorney if they had a legal problem and that over 80 percent of all respondents had no awareness of civil legal aid. The report includes an action plan calling for: a statewide 800-number call center to provide legal information and legal aid referrals; enhanced coordination on the delivery of legal assistance with entities outside the legal realm, such as clinics and shelters; exploration of new partnerships to promote outreach; use of mass media and computer technology to provide information about legal rights and obligations and legal aid resources; and increased coordination of legal work in specific areas of law affecting low-income people.
- **Wisconsin Access to Justice Legal Needs Study and Recommendations.** In May 2007, the Board of Governors of the Wisconsin State Bar voted to support all of the recommendations made in the report issued earlier in the year by the Bar's Access to Justice Study Commission. The report, *Bridging the Gap: Wisconsin's Unmet Legal Needs*, documents unmet legal needs in the state and makes a series of recommendations for addressing them. The Board of Governors adopted the report itself unanimously. The recommendations were more controversial, but all passed by substantial majorities. Among them are a proposal to support a permanent annual assessment on attorneys for legal services to the poor; a proposal to modify ethics rules to permit paralegals to represent low-income clients in court on a limited basis; and creation of an Access to Justice Commission.

- **North Carolina Summit and Report.** Chief Justice Sarah Parker presided at the North Carolina Summit on Access to Civil Justice on October 12, 2007. The Summit was jointly sponsored by the Equal Access to Justice Commission, chaired by the Chief Justice, and the North Carolina Bar Association, under the leadership of President Janet Ward Black, who has made support for legal aid the hallmark of her presidency. Participants in the Summit included six members of the Supreme Court, other judges, bar leaders, legislators, legal aid providers, and other stakeholders. Gene Nichol, then President of the College of William & Mary, was the keynote speaker. After presentations and discussions on legal needs, participants broke up into discussion groups to provide input to the Commission to guide its efforts. The Commission is currently finalizing a report and recommendations based on the findings of the Summit. The Spring issue of the *North Carolina Bar Journal*, the publication of the North Carolina State Bar, highlighted the symposium and Access to Justice issues generally.
- **New York Rural Access Conferences.** New York's Office of the Deputy Chief Administrative Judge for Justice Initiatives convened two conferences in October and November 2007 entitled, "A Conversation About Justice Issues in Rural New York: Planting the Seeds for Collaborations and Partnerships." The conferences brought together a diverse group of stakeholders from throughout rural New York to explore the barriers that poor and low-income rural New Yorkers face in addressing their legal needs and help facilitate collaborative strategies for overcoming those barriers. Participants included judges and court administrators, bar leaders, law school faculty, local government officials, social service agencies and providers, community groups and religious leaders.
- **South Carolina Access to Justice Hearings.** The South Carolina Access to Justice Commission has completed four of a series of seven regional hearings on access to civil justice at county courthouses around the state, to culminate in a final hearing at the Supreme Court in October. The hearings are intended to guide the Commission in fulfilling its charge of assessing the unmet civil legal needs of low-income South Carolinians and making recommendations regarding funding and other resources necessary to close the gap.
- **Mississippi Access to Justice Hearings.** On April 18, 2008, the Mississippi Access to Justice Commission held the first of a series of hearings around the state on the problems faced by low-income people in pursuing legal remedies through the justice system. The hearings, ordered by the Mississippi Supreme Court, are intended both to document problems and to raise public awareness. A hearing will be held in each U.S. Congressional district. The first, in Gulfport, was hosted by U.S. Representative Gene Taylor and moderated by Mississippi Supreme Court Justice Jess Dickinson. Members of the listening panel including prominent leaders from the bar, government, courts, and business community. Witnesses included legal aid providers, local judges and attorneys, community leaders and clergy, and clients.
- **New Jersey Poverty Report.** Legal Services of New Jersey has issued *Poverty Benchmarks 2008: Assessing New Jersey's Progress in Addressing Problems of Inadequate Income*. The report documents key poverty trends and examines the impact of selected anti-poverty programs.
- **Pending District of Columbia Legal Needs Study.** The District of Columbia Access to Justice Commission is currently conducting a legal needs study, with extensive pro bono support from the law firm of DLA Piper US LLP. The study, which will be completed in the summer of 2008, will rely on surveys of legal services providers, interviews with community-based organizations, analysis of court statistics, and data collection over a one-month period in which legal services providers are collecting demographic information from everyone who seeks legal assistance.

- **Georgia Legal Needs Study and Access to Justice Seminar.** The Georgia Supreme Court Equal Justice Commission's Committee on Civil Justice has contracted with the Burruss Institute of Kennesaw State University to conduct a legal needs study, which is expected to be completed by late summer. The study will include a survey of attorneys regarding pro bono service as well as surveys of low-income and middle-income Georgians concerning their civil legal needs. The assessment also includes a study of Georgia's current civil legal delivery system by surveying court personnel and legal services providers through a web-based survey and focus groups. At the June 2008 Annual Meeting of the State Bar of Georgia, the Georgia Committee on Civil Justice will present preliminary findings from the study and a brainstorming session on possible solutions. The session will be introduced by Chief Justice Leah Ward Sears. At last year's Annual Meeting, the Committee presented a mock oral argument to an "appellate bench" that included Chief Justice Sears and four other Supreme Court justices, as well as other invited judges, on whether there exists a constitutional basis for a civil right to counsel ("Civil Gideon"), based on a specific, hypothetical fact pattern.

Communications Events and Tools

- **Arkansas Access to Justice DVD/Video.** The Arkansas Access to Justice Commission has developed a new DVD/video, *Forging the Road to Civil Justice*, introduced by Supreme Court Justice Annabelle Clinton Imber, to raise awareness on the part of the bar, the judiciary, and the general public of the legal needs of low-income people and the benefits of civil legal assistance. The video can be viewed online at www.arkansasjustice.org.
- **Mississippi Access to Justice DVD.** The Mississippi Access to Justice Commission has produced a DVD aimed at drawing attention to the legal needs of economically disadvantaged Mississippians and the services available to assist those in need. The DVD, entitled *Justice for All*, includes introductions by U.S. Senator Thad Cochran and Mississippi Supreme Court Justice Jess Dickinson, as well as appearances legal services providers, their clients, and members of the Mississippi Bar.
- **New Mexico DVD.** The New Mexico Access to Justice Commission has produced *A Call to Action*, a DVD designed to educate the legal community about the need for civil legal services and inspire attorneys to provide pro bono services and contribute to civil legal aid programs. Chief Justice Edward Chavez unveiled the video in his State of the Judiciary address at the New Mexico Annual State Bar Convention in July 2007.
- **Texas State Bar YouTube Video Contest.** The State Bar of Texas conducted a YouTube video contest, "Lone Star Stories: Texans on Justice." Contestants were invited to create and submit videos on the theme of "Texans capturing the promise of justice for all." Judges included Texas Chief Justice Wallace Jefferson.
- **South Carolina Bar Convention.** Texas Supreme Court Justice Harriet O'Neill was plenary luncheon keynote speaker at the South Carolina Bar Convention on January 25, 2007. Her remarks focused on Access to Justice issues. Justice O'Neill is a member of the Texas Access to Justice Commission and was instrumental in the formation of the South Carolina Access to Justice Commission.
- **North Carolina "4All" Campaign.** Since mid 2007, the North Carolina Bar Association has conducted its *4All* campaign promoting the importance of access to justice, the signature initiative of NCBA President Janet Ward Black. The most recent event was "Ask a Lawyer" day on April 4, staffed by volunteer lawyers. Over 1000 NCBA volunteers fielded 7300 calls during the 12-hour event, surpassing the goal of "One Day. One Thousand Lawyers." For more information, see www.4allnc.org.

- **Maine Access to Justice Symposium at Annual State Bar Association Meeting.** The Maine State Bar Association's Annual Meeting in February 2008 featured a half-day Access to Justice Symposium, led by state Supreme Court Justice Jon D. Levy, the newly elected chair of the Justice Action Group, Maine's Access to Justice entity. Former Massachusetts Supreme Court Justice Herbert Wilkins, Chair of the Massachusetts Access to Justice Commission, delivered the meeting's keynote luncheon address. One session of the symposium focused on the findings of *Justice for All*, the report and recommendations of the planning process convened by the Justice Action Group.

Civil Right to Counsel

- **State and Local Bar Resolutions.** In 2006, The American Bar Association went on record as supporting the right to civil counsel in cases where basic human needs are at stake. The ABA resolution provides that:

The American Bar Association urges state and territorial jurisdictions to provide legal counsel as a matter of right at public expense to low-income persons in those categories of adversarial proceedings where basic human needs are at stake, such as those involving shelter, sustenance, safety, health or child custody.

Many state and local bars and bar associations co-sponsored the ABA resolution and since 2006 others have adopted identical or similar resolutions.

- **Boston Bar Right to Civil Counsel Task Force.** In September 2007, the Boston Bar Association President Anthony Doniger created a task force, chaired by Mary K. Ryan, a former member of the ABA Standing Committee on Legal Aid and Indigent Defendants, to study the civil right to counsel. The Task Force has been extremely active over the past nine months. Committees on Housing, Family Law, Juvenile Justice, Collateral Consequences, and Immigration have identified priorities for representation and possible pilot projects, based on surveys of judges, court personnel, legal aid advocates, private attorneys, and other interested parties to determine the types of cases in which counsel is most needed for a just outcome. Other committees have prepared material on Litigation/Research and Funding.
- **New York State Bar Association Civil Right to Counsel Subcommittee, Conference.** Under the leadership of President Kathryn Grant Madigan, the New York State Bar Association has established a Subcommittee of the President's Committee on Access to Justice on Civil Right to Counsel. The subcommittee organized a conference in early March on *Creating a Blueprint for Civil Right to Counsel in New York*. Speakers included Ms. Madigan; Wade Henderson, President of the Leadership Conference on Civil Rights; Andrew Sherer, President of Legal Services for New York City; and Hon. Juanita Bing Newton, Deputy Chief Administrative Judge for Access to Justice Initiatives. The subcommittee is also preparing a white paper on the issue.
- **Pennsylvania Bar Association Task Force, Resolution, Civil Gideon Program.** At its November 30 meeting, the House of Delegates of the Pennsylvania Bar Association adopted two resolutions, one supporting the right to counsel in adversarial proceedings where basic human needs are at stake, and one calling upon the General Assembly to restore civil legal aid funding to past levels of support, adjusted for inflation and increases in poverty. The Bar Association has created a Task Force on the Civil Right to Counsel, chaired by Villanova Law School Professor Dveera Segal. On April 10, 2008, the Pennsylvania Bar Association and the Philadelphia Bar Association jointly sponsored a program devoted to the issue, with opening remarks by Philadelphia Bar Association Chancellor A. Michael Pratt and Pennsylvania Bar Association President Andrew Susko.

- **New York City senior citizen right to counsel bill.** Legislation is pending before the New York City Council to create a right to counsel for senior citizens in Housing Court.
- **California Model Statute.** A task force of the California Access to Justice Commission has drafted the State Basic Access Act, a model state statute creating a civil right to counsel in cases where certain high-priority human needs are at stake, except where less expensive forms of assistance are sufficient to provide fair and equal access to justice. The right is also limited to contested matters in courts and other adversarial forums. This draft differs from an earlier model statute prepared by the task force that sought to implement a more a comprehensive right to equal justice, inside and outside the courts. The new draft also implements many of the policy choices reflected in the ABA resolution.
- **Minnesota Task Force.** In September 2007, the assembly of the Minnesota State Bar Association voted to establish a Civil Right to Counsel Task Force. The task force held an organizational meeting in April 2008.

IOLTA (Interest on Lawyer Trust Accounts) Revenue Enhancement

- **IOLTA Comparability Rules.** Since July 2007, seven states (Missouri, New York, California, Maine, Maryland, Louisiana and Utah) have adopted IOLTA interest rate and dividend comparability rules. On April 1, 2008, when all these rules will be in effect, a total of 19 states will have comparability rules. (The others are Alabama, Arkansas, Connecticut, Florida, Illinois, Massachusetts, Michigan, Minnesota, Mississippi, New Jersey, Ohio and Texas). Comparability rules require that lawyers place their IOLTA accounts in a financial institution that pays those accounts the highest interest rate or dividend generally available at that institution to other customers when IOLTA accounts meet the same minimum balance or other qualifications. This strategy has proven to be highly successful in increasing IOLTA income. Several other states are actively considering comparability rules.
- **Negotiated Rate Increases.** Other states are opting to negotiate favorable rates with banks. In Georgia, Wachovia Bank Georgia voluntarily raised its interest rate on IOLTA accounts to 65 percent of the Federal Funds Rate, more than quadrupling the rate on its IOLTA accounts. Some 20 other Georgia banks have followed suit.
- **Mandatory IOLTA.** In addition, five states (Alabama, Maine, Missouri, Nevada, and North Carolina) have moved to mandatory IOLTA. As of May 1, there are 37 states/jurisdictions with mandatory IOLTA participation, 13 with opt-out programs, and two with voluntary programs.

Cy Pres/Class Action Residuals

- **Illinois Cy Pres Legislation.** A new Illinois statute enacted creates a presumption that class action residuals should be awarded to civil legal aid programs. Courts are permitted to award up to 50 percent of residuals to other organizations serving the public good if they find good cause to do so. A number of recent cy pres awards to legal aid programs have been in the multi-million-dollar range.
- **Tennessee Cy Pres Brochure.** The Tennessee Alliance for Legal Services has prepared a brochure providing guidance to courts and attorneys about making cy pres awards to the Tennessee Voluntary Fund for Indigent Civil Representation, created by the Legislature in 2006 to benefit legal aid.

- **New Mexico Education Program.** The Resource Development Working Group of the New Mexico Access to Justice Commission and the New Mexico State Bar Legal Services and Programs Committee are collaborating in an effort to develop a program of advocacy aimed at judges and lawyers about awarding class action residual funds to support civil legal services.

Fees Benefiting Legal Aid

- **Pennsylvania Pro Hac Vice Fee.** In June 2007, the Supreme Court of Pennsylvania created a new pro hac vice fee, paid by out-of-state lawyers to appear in state courts, with the proceeds going to the IOLTA program to fund civil legal aid. The fee applies to those practicing in the state's trial and appellate courts. Other states with pro hac vice fees benefiting civil legal aid are Oregon, Mississippi, Texas, Missouri, New Mexico and Alabama (see below).
- **Alabama Pro Hac Vice Increase.** In November 2007, the Alabama Supreme Court increased the state's pro hac vice fee, from \$100 to \$300, with the increase going to legal aid.
- **Removal of Sunset Provision on Texas Mandatory Access to Justice Fee.** In 2003, the Texas Legislature enacted a mandatory \$65 annual Access to Justice fee for all non-exempt attorneys, with a four year sunset provision. The proceeds are divided between civil legal aid and innovative indigent defense projects, generating approximately \$1,900,000 annually for each. In the 2007 session, the Legislature removed the sunset provision, as recommended by the Access to Justice Commission, making the fee permanent.
- **California Bar Dues Check-Off.** In 2008, the State Bar of California undertook its first statewide dues check-off benefiting civil legal aid, implementing a statute enacted in 2006 establishing a new "Justice Gap Fund" and authorizing the Bar to ask each attorney to make a voluntary contribution of \$100 to the fund. The Fund generated roughly \$1 million this year.

New or Increased State Legislative Funding for Civil Legal Assistance

Final Information on the 2007 Session. State legislative funding for civil legal services to the poor increased significantly during the 2007 legislative session. The total increase was \$20,000,000, more than a 10 percent increase over 2006. Total state funding for 2007-08 is \$213,000,000. One state, Wisconsin, obtained its first state legislative funding, reducing the number of states without any on-going state legislative funding to just five.

Interim Report on 2008. Early reports on the 2008 session suggest much more mixed results. To date, only one state, Virginia, has reported a major victory. On the other extreme, two states have reported funding decreases. Both of these states are experiencing budget problems.

In some states, legislatures produce budgets on two-year cycles, and 2008 is the "off" year for those states, so it is expected that there will be less activity than in 2007. However, additional changes are expected before all of the legislative sessions end this year.

The list below includes all the 2007 increases. The early reports for 2008 are noted in italics:

- **Florida** – Appropriation increased from \$2,500,000 to \$2,600,000.
- **Hawaii** – Appropriation increased from \$1,298,000 to \$1,832,000.
- **Indiana** – Appropriation increased from \$1,000,000 to \$1,500,000.
- **Iowa** – Appropriation increased from \$1,350,000 to \$2,000,000.
- **Kentucky** – *In 2008, appropriation has been decreased from \$1,500,000 to \$500,000.*

- **Massachusetts** – Appropriation increased from \$9,464,000 to \$9,664,000.
- **Minnesota** – Appropriation increased from \$12,300,000 to \$13,300,000 for the 07-08 biennium from one-time surplus funds.
- **New Hampshire** – Appropriation increased from \$970,000 to \$1,440,000.
- **New Mexico** – New appropriation of \$2,500,000. New Mexico also has a filing fee surcharge that generates approximately \$1,575,000 annually. *In 2008, the appropriation increased slightly, to \$2,704,000.*
- **New York** – Appropriation increased from \$4,600,000 to \$12,600,000. \$5,000,000 of the new appropriation will be in the State Judiciary’s budget for civil legal services, while \$3,000,000 will go to IOLTA to be distributed based on a plan to be developed by the Governor. Legal services programs in New York also receive \$2,000,000 from a set-aside for legal services from a filing fee restructuring that occurred in 2003. *In the 2008 legislative session, the \$8,000,000 added in 2007 has been eliminated.*
- **Oregon** – New appropriation of \$350,000 for each of the next two years. State court filing fee surcharge increase for legal services will become effective 7/1/09 and is expected to generate the \$350,000 in subsequent years. Current filing fee surcharges generate \$4,119,000 annually for legal services.
- **Texas** – Obtained a new appropriation of \$750,000 for 07-08 and \$1,250,000 in 08-09 to provide legal aid to victims of sexual assault. The funding for this appropriation is part of the revenue from a new \$5 charge for admission to nude entertainment clubs. Texas has two other appropriation sources, \$2,500,000 from the state’s Crime Victims Compensation Fund and \$1,500,000 in general revenue funds, and a filing fee surcharge that generates approximately \$5,000,000 annually.
- **Utah** – An additional one-time \$100,000 was added to the existing \$100,000 annualized appropriation. All funds are for family law.
- **Vermont** - Appropriation increased from \$637,000 to \$687,000
- **Virginia** – Appropriation increased from \$1,625,000 to \$2,000,000. Virginia also has a filing fee surcharge that generates \$3,300,000 annually. *In 2008, filing fee surcharge increased from \$4 to \$9. Total filing fee revenue will increase from \$3,400,000 to \$7,600,000.*
- **Washington** – Appropriation increased from \$8,600,000 to \$11,235,000.
- **Wisconsin** – New appropriation of \$1,000,000.
- **California and Pennsylvania** received cost-of-living increases on current state funding. In California, the increase is applied to both the filing fee surcharge and the appropriation, while in Pennsylvania, the increase is applied to the appropriation.

Support for Self-Represented Litigants

- **National Judicial Conference on Self-Represented Litigation and Follow-Up.** Teams from 35 states participated in the National Judicial Conference on Self-Represented Litigation held at Harvard University in November 2007. A number of states included a representative of their Access to Justice Commission on their team. The conference focused on a curriculum for educating judges about self-represented litigation issues. Participants were instructed on how to use the curriculum in their home states. A similar team approach will be used at the upcoming Court Leadership track at the Court Solutions Conference in Baltimore in September, which is attended by many court administrators.
- **California Self-Help Rule and Guidelines.** The California Judicial Council has adopted a new rule that specifies that assistance to self-represented litigants is a core function of the courts. As required by the new rule, the California Administrative Office of Courts has prepared *Guidelines for the Operation of Self-Help Centers* in California Trial Courts. These guidelines, coordinated by the Task Force on Self-Represented Litigants, apply to all court-based self-help centers, whether the services provided by the center are managed by the court or by an entity other than the court. They are designed to ensure high quality services and provide guidance on key issues.

- **Maryland Judiciary Report and Recommendations.** In August 2007, the Maryland Judiciary Working Group on Self-Representation issued *Clearing a Path to Justice*, a report and recommendations for making the courts more accessible to self-represented litigants. Recommendations include: development of web-based document assembly for court forms; development of a clear policy for court staff distinguishing between legal advice and information; modification of judicial ethics provisions to clarify those types of interaction with the self-represented that are permissible and suggested for judges in the courtroom; development of a Judicare-type system to supplement existing legal services providers; appointment of a Bench-Bar committee to explore ways to support limited scope representation; and creation of an Access to Justice Commission (*currently in process*).
- **New Mexico Report and Recommendations, Supreme Court Order and Implementation.** In August 2007, the New Mexico Supreme Court issued an order implementing recommendations presented to the Court in May by the New Mexico Access to Justice Commission. The order authorized the Commission to pursue its recommendations concerning self-represented litigants. These include: development of a comprehensive statewide plan for the courts; development and implementation of court self-help centers; adoption of a rule defining the role of court staff who work with pro se litigants (*adopted January 2008*); coordination of support services through the Administrative Office of the Courts; development of user-friendly forms; and development of pilot projects on limited representation. The order also adopted rules on Uniform Free Process for Civil Cases. Since the issuance of the order, the Self-Represented Litigants Working Group has providing training on the new rule for court staff and continues to analyze self-representation best practices and to develop plain language forms that can be accessed by the internet. In addition, the 2007 order authorized the Commission to continue working on amendments to rules clarifying the propriety of limited representation; proposed rules have now been published for comment. Finally, the Court approved the creation of a new position at the Administrative Office of the Courts to staff the Access to Justice Commission and coordinate activities for self-represented litigants. The AOC included this position in its appropriation request and the Legislature has approved it. The post will be filled by September 1, 2008.
- **Montana Self-Help Program.** With a \$500,000 appropriation from the Montana Legislature and leadership from Chief Justice Karla Gray, the Montana Self-Help Law Program opened the state's first court-based self-help law centers in Kalispell and Billings in January 2008. Local judges, clerks of court, court administrators, and local bar associations helped to plan and support the creation of the centers, where self-represented litigants may go to receive assistance finding legal information, resources, forms, and referrals. The Self-Help Law Program is staffed by a full-time coordinator. In addition, a portion of the program's funding has been reserved for pilot projects in local courthouses throughout the state. The Montana Legal Services Association, with funding from the Self-Help Law Program, has hired a full-time attorney to develop forms for pro se litigants. The Montana Justice Foundation has awarded the Supreme Court a grant to hire and support a statewide Pro Bono Coordinator, who will seek to ensure that more self-represented litigants across the state have access to pro bono assistance and/or representation when they are not able to handle a legal problem on their own.
- **South Carolina Self-Represented Initiatives.** The South Carolina Access to Justice Commission is working with the South Carolina Bar and legal service programs on the development of self-help videos, the first of which will be available to the public shortly. The Commission has developed a bench guide for judges on dealing with self-represented litigants, which is being introduced at trainings of magistrates and family court judges. Representatives of the Commission attended the conference of the Family Court Judges in April 2008 to introduce the guide and other initiatives relating to self-represented litigants. In addition, the Commission is collaborating with the Clerks of Court on the development of a guide to assist clerks in distinguishing between legal advice and information. The guide will be made available in the spring during a training session.

- **Massachusetts “Unbundling” Pilot Projects, Guidelines, and Student Practice Rules.** The Massachusetts Supreme Judicial Court’s Steering Committee on Self-Represented Litigants, chaired by Appeals Court Associate Justice Cynthia J. Cohen, developed and implemented a Limited Assistance Representation (“unbundling”) pilot program in the Probate and Family Court in several counties. The Committee will issue a report recommending continuing the pilots and is likely to recommend expansion of this program to other counties and courts. More Probate and Family Courts, Housing Courts and the Land Court all appear interested. Following up on the distribution to all judges of its *Judicial Guidelines for Civil Hearings Involving Self-Represented Litigants*, approved by the Supreme Judicial Court in 2006, a working group is drafting parallel guidelines for court personnel regarding situations in which court staff can provide information to self-representing litigants without engaging in the unauthorized practice of law. The Committee also proposed, and the Supreme Judicial Court recently adopted, a change in the student practice rule allowing law students to appear in Probate and Family Court under a blanket approval rather than under a specific approval for each student in each case.
- **Nebraska Pilot Self-Help Center.** In July 2007, the Nebraska State Bar Association and Legal Aid of Nebraska, supported by the state Supreme Court, launched a pilot self-help center in the clerk’s office in Lancaster County District Court. The center is staffed by volunteer lawyers from Legal Aid and the bar.
- **New York Technology Initiative.** The Deputy Chief Administrative Judge for Justice Initiatives, in partnership with the legal services community (led by Legal Services of Western New York) and funded by the Legal Services Corporation and the State Justice Institute, is developing interactive interviews (using the A2J technology) and document assembly projects to assist both self-represented litigants and the pro bono attorneys who assist the indigent. The initiative establishes a new model for collaboration between the courts and providers to serve the needs of the self-represented.
- **Louisiana Bar Pro Se Resolution.** In January 2008, the House of Delegates of the Louisiana State Bar Association adopted a resolution supporting the development of court rules and policies encouraging the participation of judges, courts, legal aid programs, and bar associations in programs for self-represented litigants. The resolution also urges Louisiana judges and courts to take a leadership role in expanding and coordinating such programs and identifying unmet needs.
- **New Hampshire Web Site.** The New Hampshire Access to Justice Commission has launched a new web site, which will function both as the Commission’s home page and as a link to legal aid and support services for self-represented litigants.

Access to the Courts

- **Texas Judicial Review Legislation.** In 2007, the Texas Legislature enacted legislation providing for judicial review of Medicaid and Food Stamps decisions, after strong advocacy from Access to Justice Commission. Texas was the last state in the nation to provide for judicial review of administrative decisions on Medicaid and Food Stamps.
- **Washington Rule on Accommodation in Courts by Persons with Disabilities.** In 2007, the Washington State Supreme Court adopted a new rule providing a process for requesting disability accommodation in court. The rule was developed by the Access to Justice Board Impediments to Access to Justice Committee. The ATJ Board has supported the establishment of a new position at the Administrative Office of the Courts to implement the rule. The Legislature approved funding for the position in March 2008.

- **Collaboration on Electronic Filing in D.C.** The District of Columbia Access to Justice Commission is working closely with the District of Columbia Courts to ensure that the move toward the electronic filing of documents does not adversely affect low-income litigants. Last year, the courts issued an administrative order that permits legal services providers and law school clinics to continue to paper file so that e-filing fees will not be assessed. The Commission will continue to work with the courts on this issue as e-filing becomes a larger part of the courts' operations.

Pro Bono Development and Support

- **DC Pro Bono Recruitment.** The District of Columbia Access to Justice Commission joined with the D.C. Bar to launch an initiative targeted at the 51st-100th largest law firms in the District to devote either 3 percent or 5 percent of their billable hours to pro bono work. The initiative followed a similar effort by the D.C. Bar in 2001 to get the 50 largest firms in the District to increase their pro bono work. The kick-off event was a breakfast for managing partners and pro bono partners hosted by the Commission and the D.C. Bar. The Chief Judges of the D.C. Courts and the D.C. federal courts all spoke about their support for pro bono work. The Commission and the D.C. Bar have been following up with the law firms and will soon be reporting to the courts about the results.
- **Maryland Pro Bono Action Plan.** In 2007, the Maryland Court of Appeals approved the principal recommendations of the Pro Bono Action Plan prepared by the Court's Standing Committee on Pro Bono, including recommendations aimed at encouraging judges to become involved in local pro bono committees and initiatives. The Committee's report also tracks the progress of pro bono in Maryland since the implementation of mandatory pro bono reporting.
- **Hawaii Mandatory Pro Bono Reporting Rule.** In October 2007, the Hawaii Supreme Court adopted a rule providing for mandatory pro bono reporting. In his address to the State Bar Association, Chief Justice Moon noted that, "Without a systematic procedure for collecting such information, there is simply no other way to determine just how well or how badly we are doing in the pro bono arena and how much effort is needed to encourage attorneys to do better."
- **New Mexico Mandatory Pro Bono Reporting.** In January 2008, the Supreme Court of New Mexico adopted a revised rule of professional conduct governing pro bono service, requiring each attorney to report the number of hours dedicated to pro bono service or, if the obligation was satisfied by a financial contribution, the amount of that contribution. The new rule retains the existing aspirational annual goal of 50 hours of pro bono service, but allows it to be satisfied by a \$500 contribution to a qualifying legal aid organization. It also includes a table for calculating contributions when attorneys wish to fulfill the goal through a combination of pro bono service and financial contribution. The new rule was one of the recommendations included in the New Mexico Access to Justice Commission's Ten-Step Pro Bono Plan submitted to the Supreme Court in 2006.
- **New Mexico Local Court-Based Pro Bono Committees.** In April 2008, the New Mexico Access to Justice Commission reported to the state Supreme Court on the progress of the local pro bono committees created pursuant to the Ten Step Pro Bono Plan drafted by the Commission and approved and overseen by the Court. Implementation of the plan is now in its second year, and local pro bono committees have been created in eleven judicial districts. Initiatives underway include pro se pilot projects, clinics, institution of intake and referral procedures, priority-setting, provision of Ethics CLE credit for participation in pro se clinics, and steps to expand the pool of participating attorneys.

- **Ohio Local Pro Bono Committees.** The Ohio State Bar Association has formed a Pro Bono Committee Task Force to establish a statewide network of locally based committees to promote and support pro bono service. The task force, comprised of lawyers, judges and legal aid representatives, will work to create a committee in each judicial appellate district.
- **Hawaii Pro Bono Publicus Rule.** In October 2007, the Hawaii Supreme Court adopted a rule waiving bar dues and fees for attorneys who engage exclusively in pro bono practice.
- **Mississippi Pro Bono Publicus rule.** The Mississippi Supreme Court has amended its rules to create a new Pro Bono Publicus status, allowing pro bono practice by otherwise inactive Mississippi attorneys and attorneys licensed in other states, including law school clinicians.
- **Alaska, Colorado, North Carolina and South Dakota Emeritus Rules.** The Supreme Courts of Alaska, Colorado and South Dakota have recently adopted “emeritus” rules to allow inactive bar members to practice for the sole purpose of doing pro bono work for an approved provider. In June 2007, “emeritus attorney” legislation was enacted by the North Carolina General Assembly on behalf of the North Carolina State Bar.
- **New York “Unbundling” Rule for Pro Bono.** New York's Code of Professional Responsibility has been amended to facilitate limited scope representation in the context of a pro bono legal services program.
- **Iowa and Missouri Rules on Pro Bono following Disasters.** At its 2007 Midyear meeting, the ABA House of Delegates approved a *Model Court Rule on Provision of Legal Services Following Determination of Major Disaster*. The rule would allow out-of-state lawyers to provide pro bono legal services in an affected jurisdiction. The Supreme Courts of Iowa and Missouri have adopted versions of the model rule.
- **Texas Pro Bono Technology Plan.** The Texas Access to Justice Commission’s Technology Committee, composed of the chief information officers of leading law firms, spent more than a year surveying legal aid organizations about their technology programs, creating a technology plan to address the deficits, and researching the costs associated with the plan through a bid process. Committee members donated more than 1,000 hours of their time to the project, amounting to more than \$120,000 worth of pro bono assistance. Based on the Committee’s research and recommendations, the Texas Access to Justice Foundation purchased \$680,000 worth of equipment in bulk and donated it to the legal aid offices.
- **Texas Corporate Pro Bono Video and Corporate Counsel Committee.** The Texas Access to Justice Commission and Texas Access to Justice Foundation have produced “A Corporate Effort,” a video showcasing corporate pro bono work, narrated by state Supreme Court Justice Harriet O’Neill. The video is available on-line, along with two others, “Pro Bono: the Difference is You,” narrated by Dan Rather, and “Justice for All Texans,” narrated by Bill Moyers (www.teatjf.org/new/videos.html). The corporate counsel video is one of the projects of the Corporate Counsel Committee of the Texas Access to Justice Commission.
- **Mississippi pro bono practice manual.** Thirteen large Mississippi law firms, in conjunction with state legal services programs, have produced a manual for pro bono attorneys covering the major case types.
- **Georgia Judicial Support for Pro Bono Web Page.** GeorgiaAdvocates.org launched a web page focusing on judicial support for pro bono. The page features a message from Chief Justice Leah Ward Sears encouraging judges to consider ways to support and recognize lawyers who represent clients on a pro bono basis.

Legal Aid Delivery

- **New Mexico State Plan.** In May 2007, the New Mexico Access to Justice Commission submitted its *State Plan for Providing Civil Legal Aid to Low Income New Mexicans* to the New Mexico Supreme Court. The Plan was adopted by the Supreme Court in August 2007, with the Court assuming oversight of its implementation through the ATJ Commission. The plan dealt with such issues as priorities for client types and substantive law areas; geographical distribution of legal aid offices and staff allocation; organization of the delivery system, including points of entry, broad-based providers, and specialized providers; collaboration and coordination among providers; professional development and training; external and internal program evaluations; and system oversight.
- **Washington GIS Mapping System.** The Washington Access to Justice Board's Technology Committee developed a proposal to upgrade and enhance the statewide geographic information system mapping project utilized by the ATJ Board during its State Plan review process. It will be funded and overseen by the Office of Civil Legal Aid (part of the Judicial Department), and will be a resource for future delivery system planning, evaluation and other purposes.
- **Proposed DC Legal Aid Support Center.** The District of Columbia Access to Justice Commission has developed a proposal to create a support center capacity in the District, as is present in a number of other jurisdictions across the country. The proposal would enhance legal services providers' ability to conduct policy and legislative advocacy, as well as impact litigation. The proposal also envisions the legal services network creating a few positions for poverty law experts to serve as mentors for other legal services and pro bono attorneys. Creating this support center will require additional funds, and the Commission has begun exploring funding options.