



The State of
EQUAL JUSTICE
in Wisconsin

**A Report from
The Wisconsin Access to Justice Commission**



September 2013

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Acknowledgements

In addition to all of those who spoke or served on a hearing panel, the Wisconsin Access to Justice Commission gratefully acknowledges the invaluable assistance provided by the volunteers who helped us plan the hearings, the Wisconsin Court Reporters Association members who volunteered to transcribe each hearing, and the organizations that hosted these events.

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Introduction

As part of its mission to develop and encourage means of expanding access to the civil justice system for unrepresented low-income Wisconsin residents, in the summer and fall of 2012 the [Wisconsin Access to Justice Commission](#) (the Commission) held a series of public hearings at six locations around the state: Green Bay, Eau Claire, Milwaukee, Madison, La Crosse, and Wausau. The Wisconsin Supreme Court established the Commission in 2009 in recognition of the vast unmet civil legal needs of low-income Wisconsin residents.¹ Those needs were documented by the State Bar of Wisconsin in its 2007 report, [Bridging the Justice Gap: Wisconsin's Unmet Legal Needs](#), which called for a comprehensive program to fund and provide civil services in Wisconsin. Progress toward meeting the challenges described in that report has been uneven.² The primary purposes of the Commission's 2012 hearings were to (1) gather information about and raise awareness of access-to-justice issues in Wisconsin, the current availability of civil legal services, and the unmet need for legal services; and (2) form an active network of advocates for access to justice and civil legal services.

The public hearings drew 137 witnesses who testified in person or in writing about the critical areas of need for legal assistance and representation among low-income individuals. The individuals testifying came from varied backgrounds and experiences: judges, court commissioners, court employees, attorneys in private practice, law school representatives, members of the public, and attorney and nonattorney representatives of public service, nonprofit, charitable, and religious organizations. See Appendix A.

The panel members hearing this testimony, besides Commission members, included members of the judiciary, elected state and county officials, State Bar of Wisconsin leaders, business executives, and representatives of legal service organizations and other nonprofit service organizations. See Appendix B.

This report summarizes five fundamental themes that emerged from the testimony, as well as particular areas of need identified by the speakers. Drawing from the recommendations of the speakers and panel members and the work of the Commission, this report sets forth nine key recommendations for action that, we believe, will expand equal access to the civil justice system for low-income Wisconsin residents.

¹ A list of the Commission's members and who appointed them is on the Commission's website, <http://wisatj.org>.

² Some notable accomplishments include the State Bar's creation of a statewide reduced fee lawyer referral panel, the Wisconsin Supreme Court's decision to make the fee paid by lawyers and judges to fund civil legal services permanent, and the creation of the Access to Justice Commission. Other recommendations, such as legal aid funding from the State of Wisconsin, showed initial promise but have been reversed.

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Our [United States and Wisconsin] constitutions require that due process be fair and equitable to all persons, regardless of their means, regardless of their wealth, regardless of their poverty, regardless of their race, regardless of their social circumstance....

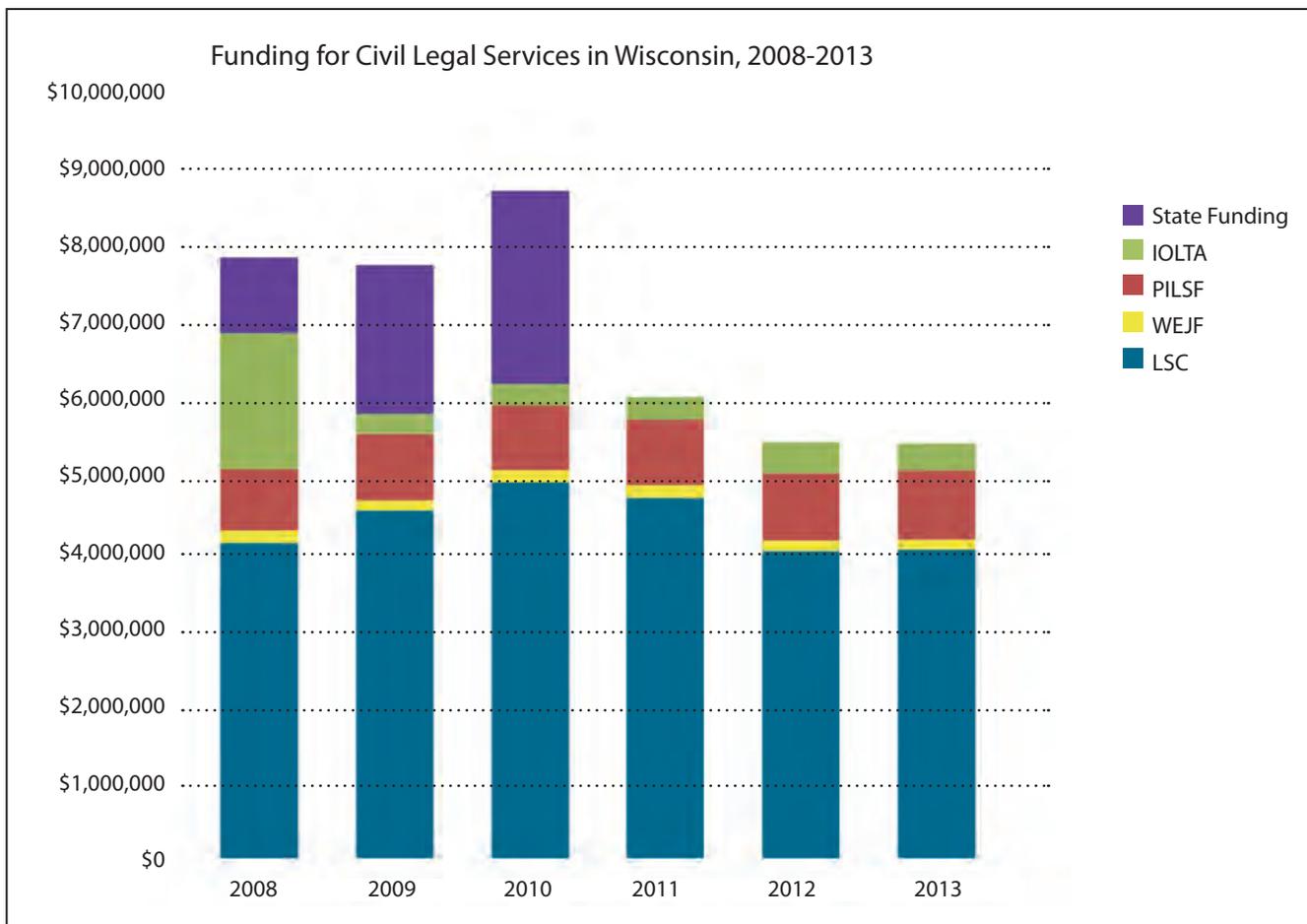
*Washburn County Circuit Court Judge
Eugene Harrington*



Fundamental Themes

1. Increased Need/Decreased Resources

Speakers at all six hearings stressed the economic downturn's devastating effect on the ability of low-income persons to obtain legal services in civil matters. People became less able to pay for lawyers, and the demand for legal services in areas of fundamental need – including employment, governmental benefits, and housing – increased at exactly the same time that funding for those same services decreased. Congressional appropriations to the federal Legal Services Corporation – the largest single funding source for legal services providers in Wisconsin – have not kept pace with inflation or with the recession-fueled growth in legal needs. Funding for civil legal services available through the Wisconsin Trust Account Foundation³ (WisTAF) has fallen precipitously with the elimination of Wisconsin's state appropriation for civil legal services in 2011 and falling income from interest on lawyers' trust accounts (IOLTA). Other funding that



³ The [Wisconsin Trust Account Foundation, Inc.](#) (WisTAF) was created in 1986 by the Wisconsin Supreme Court to help bring together Wisconsin's legal and financial communities to fund grants to agencies providing civil legal services to Wisconsin's most vulnerable residents.

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[T]here isn't a day that goes by that we don't deal with a woman who's a victim of domestic violence who doesn't have the money or the resources to seek out legal assistance to help with a restraining order, to help ensure that her children are safe, to help leave a horrible, horrible relationship ...

Ted Phernetton, Director of Catholic Charities for the Diocese of Green Bay

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is distributed through WisTAF has been more stable, including the \$50 annual Public Interest Legal Services Fund (PILSF) assessment paid by Wisconsin lawyers and judges and the private fundraising campaign for the Wisconsin Equal Justice Fund (WEJF). The recent history of these major funding streams is shown on the previous page.

Even before the 2008 recession, most of Wisconsin's civil legal services providers were turning away 50 to 80 percent of eligible clients because of insufficient funding. Stagnant or declining funding magnified the problem of access to justice for Wisconsin residents living on limited incomes. All of Wisconsin's legal services providers were forced to significantly scale back their services, tighten eligibility requirements, lay off staff, and not fill open positions⁴. The inescapable conclusion is that there is a significantly greater need for funding and services than in 2007, when the State Bar issued its report finding that more than half a million low-income people in Wisconsin face a significant legal problem each year without legal assistance.

2. Continuum of Services

Public hearing testimony described an impressive range of efforts to provide assistance to low-income individuals facing legal problems. These efforts include the following: provision of simplified forms, help filling out forms, provision of information on procedural and substantive law, assistance by trained lay advocates, conducting legal advice clinics, and in-court representation by staff attorneys from a legal services organization and by pro bono volunteer attorneys. Dawn Caldart, executive director of the Milwaukee Justice Center, described the range of approaches as a “continuum of legal assistance” that, when available, enables “unrepresented litigants [to] obtain support to represent themselves in appropriate cases and obtain counsel for more complex issues.”

There was uniform agreement that these approaches are not interchangeable. Although simplified forms, information on the law, legal advice, and the assistance of trained lay advocates are each effective in particular circumstances, there are many cases in which only extended representation by an attorney can provide meaningful access to justice.

Jefferson County Circuit Court Judge William Hue testified that, “[w]hile initiatives such as simplified pro se forms have definitely made it easier ... to access the system[,] ... [m]aneuvering through and effectively participating in the legal system is a different matter. Once inside the system, people struggle.” This is sometimes because of the

⁴ Most of the civil legal services programs that receive funding through the Legal Services Corporation, WisTAF, and other funding sources use a percentage of the federal poverty guideline to determine client eligibility. The most common income eligibility requirement is that household income must be less than 125% of the federal poverty guideline (\$14,363 for an individual and \$29,438 for a family of four in 2013).

specific barrier an individual may face. For example, Kathryn Rubino, of Neighbor’s Place, a human services organization, testified, “[for] [m]ost of the families we work with, their barrier is not only poverty; it’s oftentimes low language, low literacy. Mental health barriers is a huge one – those with mental health barriers or cognitive disabilities.”

Even when individuals do not face these particular challenges, forms and written materials may be of limited use. Unlike lawyers, these materials “[cannot] critically analyze the factors of their specific case and give them accurate advice as to what to expect as a potential outcome in court,” explained Sauk County Court Commissioner Leo Grill. Brief advice is available at free legal clinics in many counties, but the clinics do not provide ongoing representation. Attorney Beverly Wickstrom, coordinator of the Eau Claire Free Legal Clinic, described the limitations on services at that clinic: “[W]e can’t provide legal representation for somebody’s entire case. [You] get the 15 minutes [of advice], but you don’t get someone who will go to court with you, who will help you draft your documents, and so on. People can come back for another 15-minute session next month, but you only get a limited amount of advice.”

Whether speakers stressed the need for full legal assistance in certain cases or the substantial help that more limited assistance can provide in other types of cases, all agreed that more resources were essential to provide the continuum of services that low-income residents require.

3. Effect on the Judicial System

Judges, court commissioners, and clerks of court testified to the difficulties that the large number of unrepresented litigants presents to the court system. These cases often take more of the judges’ and court staff’s time, and settlement before trial in such cases is less likely than when parties are represented.

In addition, litigants who are unrepresented in court make it difficult for the court to remain a neutral decision maker. Dodge County Family Court Commissioner Joseph Sciascia wrote, “I see people in court regularly who are attempting to work their way through the system pro se, who may have a valid case but are totally incapable of presenting their case in court.” But, as Jefferson County Circuit Court Judge William Hue pointed out, “As judges [and court commissioners], we are ethically prohibited from mining into the merits of any particular party’s case in order to advocate any party’s best case.”⁵

⁵ These same points were made by the following judges and court commissioners who testified before the Wisconsin Supreme Court at the October 4, 2011 public hearing on the “Civil Gideon” petition (No. 10-08, Petition to establish a right to counsel in civil cases): Milwaukee County Circuit Court Judges Mary Triggiano, Thomas Donegan and Glen Yamahiro; former Monroe County Circuit Court Judge Michael McAlpine; former City of Milwaukee Municipal Court Judge James Gramling; and Winnebago County Court Commissioner David Keck.



[T]he judicial system is doing a good job.... But we’re not doing a complete job because there are many people in our society that appear in front of ... judges without lawyers, without assistance, without knowledge, without any life experiences that suggest they will have, as the case law says, a “meaningful opportunity to be heard.”

*Washburn County Circuit Court Judge
Eugene Harrington*



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“[i]n 2011 the benefit specialists [nonattorney staff assisting older adults in obtaining public benefits] brought to the economy of Wisconsin for them to spend in the local economy on their food, housing, and health care—\$66 million.”

Betsy Abramson, speaking on behalf of the Greater Wisconsin Agency on Aging Resources speaking at the Madison hearing

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The effects go beyond the courthouse and undermine a key element of our justice system. Speakers both within and outside the court system spoke of disadvantages that unrepresented persons typically face in court. This situation not only affects those individuals, it is a matter of concern for everyone in Wisconsin. Justice Ann Walsh Bradley stated in her remarks at the Wausau public hearing, “[T]he very integrity of our judicial system is compromised when legal representation for critical needs is available only to those with money. The lack of access to counsel undermines our sense of fair play upon which our legal system is founded.”

4. Cost Effectiveness

A number of speakers pointed out that providing legal aid to low-income individuals is cost effective. La Crosse County Circuit Court Judge Ramona Gonzalez noted that La Crosse County saved money when it established a mediation program for children in need of protection and services (CHIPS) cases. These cases had often resulted in contested termination of parental rights cases, which required the appointment of public defenders to represent the parents at trial. As a result of paying for the mediator and for attorneys to represent the parents in these CHIPS cases, “the number of those contested parental rights cases at the back end decreased because we were putting resources on the front end. The children were getting better outcomes, families were getting better outcomes.”

Another judicial system cost that could be avoided by making an initial investment in paying for counsel was presented by Lisa McDougal, staff attorney for the State Public Defender. She described clients she has defended who face contempt of court charges for failing to pay child support because they became unemployed but did not have the needed assistance to seek modification of the order. The state incurs the cost of paying her to defend against charges of contempt, but that cost—and a possible jail sentence for the client—could have been avoided if the clients had assistance on the preliminary civil matter of modifying the child support order.

Legal assistance and representation also can be used to help low-income individuals recover money and governmental benefits, which they use to meet their and their family’s basic needs. This is a benefit to the community as well, because that money will be spent in the local economy. For example, Betsy Abramson, speaking on behalf of the Greater Wisconsin Agency on Aging Resources, testified that “[i]n 2011 the benefit specialists [nonattorney staff assisting older adults in obtaining public benefits] brought to the economy of Wisconsin for them to spend in the local economy on their food, housing, and health care—\$66 million.” Likewise, data compiled by the Commission concerning the financial gains from the expenditure of funds for other legal services demonstrates the cost effectiveness of those expenditures. See Appendix C.

Less easily quantified but no less significant are the short- and long-term benefits that result for children when necessary legal services help their families achieve or maintain a living situation without domestic violence, a custody decision based on all relevant facts, or stable housing instead of homelessness.

5. Concerted Action

Given the scope of the need for legal services for low-income Wisconsin residents, solutions for meeting this need require the initiative and participation of a wide array of institutions and individuals: the court system, the Legislature, county governments, the State Bar of Wisconsin, individual attorneys, Wisconsin's law schools, paralegal associations, legal services programs, community organizations that serve low-income individuals, community leaders, and all members of our communities who understand the importance of this issue. This was the message of speaker after speaker. It is not simply a problem for the courts to resolve, although their leadership is critical. Nor can attorneys alone, through more pro bono services, fill this need, although that is a feasible and essential component.

Legal Areas of Greatest Need

Testimony was presented on a wide range of areas of law in which low-income individuals face serious legal problems without legal assistance. We focus on five areas that affect the basic human needs for safety, shelter, care of children, and subsistence income.⁶

1. Domestic Violence and Elder Abuse

Several speakers vividly described the need for legal assistance for victims of domestic violence—both so they can obtain injunctions to protect themselves, and so they are not disadvantaged in the family court proceedings that often are inextricably involved with the injunction proceedings. Victims of domestic violence testified with great courage about the effects of domestic violence on themselves and their children and the tremendous difference that having an advocate made in their lives. Advocates told the stories of some of their clients. Lu Scheer, of ADVOCAP, a nonprofit community action agency, told the story of a client who fled with her children from a violent relationship, taking with her only “the possessions she was able to grab as her husband [lay] passed out.” He pursued her to her friend’s house, so she and her children moved to a shelter. There she was referred

⁶ Speakers also described the following additional areas of legal need for low-income residents: consumer, employment, bankruptcy, education and employment discrimination against persons with disabilities, estate planning and probate for elderly persons, and issues specific to veterans.



Hon. Molly Gale Wyrick, Polk County Circuit court, Gregg Moore, Wisconsin Access to Justice Commission and Michael Waterman, State Bar of Wisconsin Board of Governors on the hearing panel in Eau Claire



The question is when are we – as a state, as members of the legal profession, as leaders and policy makers — when are we going to demand equal justice for our citizens in Wisconsin — especially women, children, and men who use the justice system simply to find safety and protection?

Tony Gibart, Wisconsin Coalition Against Domestic Violence

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to Legal Action of Wisconsin.⁷ The client, who is now employed and self-sufficient, told Scheer she “never could have done it had she not had the opportunity to have someone stand next to her in court and support her and tell her what she was doing for her and her family was the right thing to do.”

Other speakers described the many victims who do not receive necessary assistance, solely because of the lack of resources. For example, Judith Stern, staff attorney and special projects director for Judicare, testified that Judicare must turn away two-thirds of all financially qualified victims of domestic violence because the agency lacks adequate funding. Similarly, Legal Action of Wisconsin, because of insufficient funding, must stringently limit the number of domestic-violence victims it serves. The Legal Aid Society of Milwaukee does not represent persons seeking injunctions against domestic violence, although it does work closely with the Sojourner Family Peace Center to provide domestic violence victims with legal assistance in other areas of law.

Several advocates working for organizations serving domestic violence victims, such as Peter Bennett, of Domestic Abuse Intervention Services, testified about the limitations on what they can provide because they are not attorneys. Bennett explained that, while the advocates at his organization are able to provide basic legal information and assist in understanding procedures, they are not attorneys and cannot represent clients in court — which is often the most pressing need.

The dynamics of abuse, numerous speakers testified, cause victims of domestic violence to be especially vulnerable when representing themselves. Many are afraid or unable to face their abuser in court. In addition, according to Tony Gibart, of the Wisconsin Coalition Against Domestic Violence, “[a]busers commonly use [their] children as leverage to control their victims. Thus, for victims, child custody cases can become the locus for the terrorizing dynamics that characterize domestic abuse generally.... Given the inherent power imbalances in abusive relationships, unrepresented victims are susceptible to ceding their rights to the abusive parent or abandoning the attempt to separate all together.” This happens as well with child support and other financial issues.

Attorney and nonattorney advocates, particularly those from the state’s more rural areas, testified about the lack of attorneys who will take domestic violence cases on a pro bono basis. This is especially true when, as is often the case, family law issues are involved.

⁷ Legal Action of Wisconsin, Inc. provides free civil legal services in 39 counties in the southern part of the State. Judicare, Inc. provides free civil legal services to residents in the 33 northern counties and to the 11 federally recognized Indian Tribes. The Legal Aid Society of Milwaukee provides free civil legal services to Milwaukee residents.

Testimony highlighted protection of frail and vulnerable elderly persons as another area in which legal assistance is needed. These individuals are subject to physical abuse and neglect, as well as financial exploitation, explained Attorney Nicole Zimmer of SeniorLAW in Milwaukee and Noreen Holmes of the La Crosse County Aging Unit. Zimmer pointed out that frail and vulnerable elderly persons rarely are able to manage presenting a case before an administrative agency or court on their own, even with legal advice. They need advocates. Yet, Zimmer stated, SeniorLAW must turn away eligible elderly clients due to a lack of resources, and other areas of the state do not even have programs that provide services comparable to those provided by SeniorLAW.

2. Evictions and Other Landlord/Tenant Issues

Evictions and other problems with landlords are common legal issues for low-income individuals, according to the speakers who work for nonprofit and governmental agencies that serve this population.

Tenants facing eviction may have defenses but generally are not aware of them, and the short time frames in eviction proceedings present a particular problem for unrepresented litigants. Some counties have free legal clinics at which advice on landlord/tenant issues is provided, but an adequate defense often requires representation by an attorney.

Preventing evictions is a high priority, explained Kevin Magee, of Legal Action of Wisconsin, because for low-income people, eviction “[m]ost often ... means they’re going to be homeless. If they’re lucky, they might get into a shelter. And, if not, they have to look for friends or relatives, or they might be in the streets.... And, once someone has become homeless, it’s going to become near impossible for them to maintain a job.... And if there are children, their ability to succeed in school is going to be stressed to, probably, beyond the breaking point.” An eviction is a significant barrier to obtaining housing in the future: it affects people’s credit rating, and tenants who were receiving Section 8 rent assistance may be permanently barred from receiving future rent assistance.

The presence of an eviction action on an individual’s CCAP⁸ record compounds the difficulty of finding alternative housing.

Unsafe and unhealthy living conditions are another prevalent issue for low-income tenants. Many rent substandard units because they cannot afford better housing. They typically are unaware of their rights as tenants and their landlords’ obligations, and many simply accept a landlord’s failure to make repairs. For tenants who want to do something about these problems, legal advice and representation

⁸ Wisconsin Court System Circuit Court Access (WCCA) is a website that provides access to certain public records of the Wisconsin circuit courts.



One of the most debilitating problems for poor people in communities is a lack of access to lawyers and the legal system in civil matters impacting fundamental human needs.

Kim Cable, Housing and Community Services Director, Coulee Community Action Program



Attendees listening at the La Crosse hearing





Every single day we work with people who are on the edge of foreclosure or have received notice of foreclosure.... We deal with people, real people, in severe pain; and the pain is only deepened and heightened because they cannot access legal services.

Ted Phernetton, Director of Catholic Charities, Diocese of Green Bay

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are crucial. Erin Loveland, of House of Mercy, a shelter for homeless women and families in Janesville, told the poignant story of a woman with children who withheld rent when the landlord did not remove the mold in her apartment and make other repairs, which he had promised he would do when she moved in. She was evicted and learned only during the eviction proceeding, in which she was unrepresented, that she should have sued the landlord rather than withholding rent; in any case, she could not have afforded a lawyer.

Another recurring issue is the inability of tenants to get their security deposits returned due to lack of knowledge of the law and lack of assistance. For low-income tenants, losing these deposits makes it more difficult to obtain another place to live because that requires another security deposit.

3. Foreclosures

The national home-mortgage-foreclosure crisis has hit low-income homeowners in Wisconsin hard, and many face losing their homes with no legal assistance. According to Sarah Orr, director of the Consumer Law Clinic at the University of Wisconsin Law School, more than 700 new foreclosure lawsuits were filed in Dane County during a six-month period in 2012. Typically, only about 20% of defendants file an answer and even fewer have attorneys to represent them, while 100% of those bringing the actions have lawyers. Adequate legal services representation might prevent foreclosure for homeowners who have defenses or who can afford modified payments.

Two types of programs have been developed to assist low-income homeowners facing foreclosure. One type – exemplified by the Dane County Foreclosure Assistance Clinic⁹ and the Marquette Volunteer Legal Clinic – provides information on the foreclosure process to homeowners and assists them in completing an answer and filing it with the court. Volunteer attorneys work alongside law students to provide these services. A second type of program provides mediation services to homeowners and lenders. The Wisconsin Foreclosure Mediation Network has recently established five regional centers, in addition to those in Milwaukee County and Dane County. Currently, 24 counties are participating, with a number of others expected to join soon. Even if a county has not yet formally initiated participation, litigants within that county have access to mediation if both parties consent. These efforts have been funded largely through grants from the Wisconsin Attorney General’s Office as a result of settlements of nationwide foreclosure-related lawsuits.

⁹ The Dane County Foreclosure Assistance Clinic receives support from the Dane County Bar Association and the UW Law School, with grant funding provided by the State Bar of Wisconsin and other support provided by Dane County.

While the foreclosure assistance clinics and foreclosure mediation programs have been successful in helping many low-income homeowners facing foreclosure, large areas of the state are not served by one or both. In addition, there are many situations in which the limited assistance available in a legal clinic does not enable an individual to effectively defend against foreclosure, and legal representation may be needed for effective use of the mediation program. However, it is difficult to find attorneys who are willing to provide pro bono representation for defendants in residential foreclosures because of the time-consuming nature of the proceedings; and Judicare, Legal Aid, and Legal Action of Wisconsin are able to accept only a few, if any, foreclosure cases.

4. Family Law

Divorces and other types of cases that involve disputes over child custody and placement can be complicated, and, for low-income persons especially, the manner in which child support and other financial matters are resolved has a critical effect on their ability to support themselves and their children at even a minimal level. Thus, even in cases in which domestic violence is not involved, family law was identified as an area of great need by speakers having a variety of roles in the judicial system and the community.

The number of litigants who are not represented in family law matters is staggering, and most are not represented because they cannot afford a lawyer. Sauk County Court Commissioner Leo Grill testified that, in approximately 80% of the family law cases he handles, both litigants are unrepresented. According to Attorney Melissa Dalkert, president of the Portage County Legal Aid Society, in 2011 both parties were represented in only 12% of the divorce cases filed.

No doubt because of the large number of people proceeding without representation in family law cases, there are several resources available to help unrepresented family law litigants short of providing legal representation. Forms are available on the [Wisconsin Court System's website](#), and some counties provide information about the necessary forms and procedures at the county courthouse.¹⁰ In a number of counties – through the efforts of local bar associations, volunteer attorneys, law schools, nonprofit organizations, and other members of the community – there are free legal-advice clinics that address family law issues and help people fill out the forms.¹¹ In addition, family law mediation programs, like those described in La Crosse County,

¹⁰ There was testimony that services of this type are offered at the courthouses in Dane, Eau Claire, Milwaukee and Portage Counties.

¹¹ According to the [Directory of Self-Help Legal Resources in Wisconsin Counties](#) published by the Wisconsin Court System, the following counties have free legal advice clinics: Brown, Chippewa, Dane, Eau Claire, Kenosha, La Crosse, Milwaukee, Outagamie, Ozaukee, Richland, Pierce, Polk, Sheboygan, St. Croix, Washington, Waukesha, and Winnebago.



Janan Najeeb, Milwaukee Muslim Women's Coalition on the panel in Milwaukee



Emily Allen, Eau Claire citizen

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Many of these pro se divorce litigants are in way over their heads, and that's despite the help they get, despite the packets they get, the online forms, the explanatory materials. They still don't understand the process.

Prof. Judith McMullen, Marquette Law School

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Dane County and Milwaukee County, can be a cost-effective means to resolve some disputed issues.¹²

There is a wide variation from county to county in the availability and scope of these self-help and mediation programs. However, even when these services are available, speakers, including providers of these services, agree that they are inadequate in many cases to enable litigants to effectively represent themselves. Professor Judith McMullen, family law professor at Marquette Law School, testified:

[S]ome research ... suggests that actually self-representation works well for the so-called simple divorces ... couples who don't have children, minor children, who don't have any property to divide.... However, in cases involving property and custody disputes or disputes over support, it's a different story. A lot of litigants find themselves very emotional about the issues, they're confused about their rights. And I have spent some time volunteering at the Milwaukee [Justice Center Family Law] Self-Help Desk. I consulted with our students who volunteer there, and it is clear to me that many of these pro se divorce litigants are in way over their heads, and that's despite the help they get, despite the packets they get, the online forms, the explanatory materials. They still don't understand the process.

In the area of family law, Judicare, Legal Action of Wisconsin, and the Legal Aid Society of Milwaukee focus their scarce resources on victims of domestic violence. Only a limited number of low-income litigants are able to obtain pro bono representation in family law matters from private attorneys through programs established by local bar associations, community nonprofit organizations, and the Volunteer Lawyers Project of Legal Action of Wisconsin. The amount of time involved in handling many family law cases makes them difficult to refer.

Legal issues affecting children also arise outside of the divorce context, for children being raised by nonparent caregivers. The need for a guardianship is one example. According to Susan Fischer, a staff attorney for Kids Matter, Inc. in Milwaukee, more than 20,000 children in Milwaukee County are raised by nonparent caregivers. Kids Matter, with a limited staff and pro bono attorney volunteers, provides legal representation to relative caregivers, foster parents, and children inside and outside the foster care system in Milwaukee County. Kids Matter does not have the resources to provide direct representation outside Milwaukee County. It gives legal information to callers from other counties, but this does not meet the need for legal representation.

¹² Under Wis. Stats. § 767.405 circuit courts are required, with certain exceptions, to refer to mediation family law cases when it appears that issues involving physical placement and legal custody are contested, and the county is required to provide mediation services as described in the statute. However, the development and activity of these mediation programs appear to vary widely among the counties.

5. Governmental Benefit Programs

For individuals and families with little or no income, governmental benefits programs are essential to provide for food, shelter, and other basic needs. The eligibility criteria for obtaining and maintaining these benefits, such as Supplemental Security Income, Social Security Disability, Medicaid, and Medicare, can be complicated to understand, and many people need assistance in doing so. A model that has proved successful and cost effective in providing these services uses trained lay advocates supervised by attorneys. The Greater Wisconsin Agency on Aging Resources, Disability Rights Wisconsin, and ABC for Health are among the organizations that use this model. However, the increasing need for these benefits, coupled with decreases in funding, means that many individuals do not receive benefits to which they are entitled.

Karen Roehl, of Legal Action of Wisconsin, described the far-reaching positive effect that obtaining disability benefits can have on the life of an impoverished client:

[W]hen somebody wins their disability case, it helps them tremendously with stabilizing their situation. They now have income. They now have health insurance. They now can afford housing. So ..., for example, if they're homeless, they now have a stable source of income; and when you get stable housing, ... a lot of these other issues can get resolved for clients.

The economic downturn has also significantly increased the number of persons seeking unemployment compensation benefits. At the same time, however, the Legal Aid Society of Milwaukee has stopped accepting almost all unemployment compensation cases. Legal Action of Wisconsin refers unemployment compensation cases to pro bono attorneys via its Volunteer Lawyers Project, but there are not enough attorneys willing to take these cases. Both the University of Wisconsin Law School and Marquette Law School have clinics in which attorney-supervised law students represent persons at administrative hearings and in appeals to the Wisconsin Labor and Industry Review Commission (LIRC). However, these clinics operate only when classes are in session, they serve only the Madison and Milwaukee areas, and they generally do not handle appeals to the circuit court.

Tracey Schwalbe, general counsel for LIRC, described the efforts that her agency has undertaken to provide information and form pleadings for the circuit court appeal process on [LIRC's website](#). Although these tools have decreased deficient pleadings and increased the chance for meaningful review, she stated, they do not resolve the need for representation by attorneys in the circuit court process.

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[W]hen somebody wins their disability case, it helps them tremendously with stabilizing their situation. They now have income. They now have health insurance. They now can afford housing.

Karen Roehl, Legal Action of Wisconsin



Mary Lynn Larson, parent and board member for Disability Rights Wisconsin testifies in Green Bay about the legal needs of parents of people with disabilities

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Special Circumstances

Language Barriers. A recurring topic at the hearings was the difficulty experienced by persons in need of legal assistance or representation who do not understand or speak English. This is a problem in all parts of the state, in rural and urban areas alike. These individuals are predominantly Spanish or Hmong speakers, although there was testimony in Milwaukee about the wide array of other languages spoken by non-English-speaking low-income persons in need of legal services.

Speakers recognized that interpreters are available for in-court proceedings but focused on the needs that court interpreters are not able to meet outside that context. The consensus was that persons who do not speak English generally cannot effectively represent themselves in court, even with an interpreter. If there is an attorney who will take a case pro bono, funding is necessary for an interpreter outside of court. As Melissa Dalkert, president of Portage County Legal Aid Society, testified, “[A]ny attorney will tell you that they need to meet with their clients ahead of time. They need to know the situation. They need to have good information, and they need to have an interpreter in order to do that.”



Dorothy Her, La Crosse Area Hmong Mutual Assistance Association testifies in La Crosse.

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Other speakers testified about how difficult it is for non-English speakers to obtain information or advice on a legal problem, let alone representation. Testifying on behalf of the La Crosse Hmong Legal Assistance Association, Dorothy Her said, “Having legal resources for low-income individuals who also have that language barrier and culture barrier is very crucial. The average person already has a hard time understanding the legal system to get help, as we’ve all heard today. So for Hmong individuals it seems very unattainable and just impossible to get that help. It’s a very scary thing that we are struggling with.”

Tribal Courts. All 11 Indian tribes in Wisconsin have tribal courts, which have been rapidly expanding their cases and jurisdiction to include child support, paternity, and other family law issues. A recent survey of tribal courts indicated that a very high number of cases involve unrepresented parties. Members of tribal communities face the same legal problems related to basic needs as do other Wisconsin residents, but they face additional barriers to obtaining legal services. Few attorneys practice in the most rural northern counties, and even fewer are willing to take the necessary steps to be admitted to practice in the tribal courts. David Armstrong, staff attorney at the Judicare Indian law office, described this problem and added that “tribal court rules [and] tribal court procedures are no more onerous than those of the State of Wisconsin.” He also noted that tribal advocates do not need to be attorneys, but they do need to be trained, and new training programs are needed.

Recommendations

Access to justice is not a legal issue; it is a fundamental principle that has guided our justice system since its inception. We all have a responsibility to ensure equal access to justice and fair treatment for Wisconsin's residents with civil legal needs. Until we join together and take action as a society, the challenges addressed in this report and the costs that they impose will only increase. We believe that implementing the following recommendations would be a step in the right direction to move Wisconsin forward.

1. Stable funding from public and private sources must be provided.

Wisconsin has the unenviable distinction of being one of only four states that provide no state funding for civil legal services to the poor. All justice system stakeholders (the court system, the State Bar of Wisconsin, the Legislature, county and local governments, legal services organizations, and the public) have a shared responsibility to be active, vocal partners in coordinated advocacy for the financial resources necessary to support the provision of basic civil legal services. Many of these stakeholders have made valuable contributions to the effort to ensure stable funding for civil legal services. But, unless we are willing to settle for the current state of affairs, we must do more, we must do it together, and we must be open to doing things differently. Our recommendations for specific categories of stakeholders are the following:

a. Wisconsin Court System – Wisconsin Supreme Court justices are the leaders of our court system. Regular, active involvement from the full court is crucial if we are to persuade the Legislature to provide adequate resources for civil legal services. Similarly, lower-court judges can make a difference as leaders in their communities. In states in which the judiciary has been actively engaged in access-to-justice efforts, more resources have been directed toward funding civil legal services. The National Center for State Courts created the [Center on Court Access to Justice for All](#) to house resources and expertise for judicial branch leaders.

b. Legislature – Equal justice under law is a nonpartisan issue. In 46 of the 50 states, legislatures have found a way to avoid partisanship and provide some degree of civil legal services funding through either an appropriation or a filing-fee surcharge. State legislatures as diverse as those in Mississippi, Connecticut, Washington, Texas, Virginia, and Minnesota have approved funding for civil legal services. In two successive Wisconsin budgets, funding for civil legal services has been voted down along party lines.

c. Bar associations – The State Bar of Wisconsin has a public policy position that supports adequate state and federal funding for civil legal services. That policy position



"[W]hat do we as custodians in the greatest system of justice in the world want justice to look like to all participants? And once we figure out what justice should look like, assuming that look equates to fairness and equality and I think we can all agree to that. Shouldn't we ensure that the system actually be what we want it to look like?"

Hon. William Hue, Jefferson County Circuit Court





Sherry Coley, State Bar of Wisconsin Board of Governors and Fr. Bill Ribbens, Wisconsin Access to Justice Commission listen to testimony in Green Bay.

is implemented through the bar’s government relations staff and volunteers. The State Bar’s elected leaders should be active participants in support of this policy position. Local bar associations also can take a more active role in supporting adequate state, federal, and private funding for civil legal services. In Texas, for example, many local bar associations passed their own resolutions supporting legislative efforts by the Texas Supreme Court, the State Bar of Texas, and the Texas Access to Justice Commission.

d. Legal services providers – Legal services providers must work together to present a unified message to public policy makers. A new, broad-based alliance of organizations that provide legal assistance to the poor should be created to stand with other stakeholders as a unified voice for the front-line organizations that deliver vital legal services to so many Wisconsin residents every day.

e. Wisconsin Trust Account Foundation – WisTAF, as the largest Wisconsin funder of civil legal services, should take an active leadership role in planning and implementing advocacy and training that help secure additional resources.

f. County and local governments – In addition to supporting efforts to obtain state and private funding, county and local governments should themselves invest in local programs that serve their residents.

g. Business and community leaders – The Commission and its stakeholders must broaden the base of access to justice supporters to include key business and community leaders who have the skills, connections, and resources to make a difference on a public policy issue that affects the people and communities where they live, work, and do business. Leaders from the business community and other organizations have unique knowledge of available resources and successful collaborations occurring in their local communities, as well as ties to their local and state governments. Their knowledge and expertise will be invaluable in securing funding to address specific legal needs occurring within those communities, and their involvement can strengthen those efforts.



Rep. Steve Doyle, 94th Assembly District and Tom Bice, Trempealeau County Board of Supervisors listen to testimony in La Crosse.

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2. Combine, coordinate, and share the disparate public legal-education efforts of the court system, bar associations, and legal services providers to form a unified, searchable set of online resources to help members of the public find appropriate legal resources. Examples of integrated resources can be found in a number of states, including Illinois, Minnesota, and Iowa.

3. Ensure that every Wisconsin courthouse has a legal resource center to help members of the public find and use relevant legal information. These centers should have paid staff or volunteers capable of providing basic legal information and referrals (e.g., librarians or paralegals). Currently, only 17 of 72 counties have a free legal clinic where local residents can obtain basic legal information, get help with forms, or receive brief legal advice. The [AmeriCorps](#) and [Equal Justice Works](#) programs are reservoirs of willing and talented young people who can serve as a valuable organizing resource for such efforts. [California's JusticeCorps](#) is an excellent example of how this can work in practice.

4. Pro bono service must be encouraged and supported at all levels of the legal system.

- a. Grant a limited amount of CLE credit to lawyers who provide pro bono legal services through approved programs. Seven states have implemented this type of provision.
- b. Create a pro bono membership category or discounted membership status for active volunteer lawyers.
- c. Provide free or low-cost on-demand training or other benefits for volunteers representing persons of limited means.
- d. Provide access to mentorship tools and electronic lists for volunteers taking pro bono cases in new areas of law.
- e. Encourage more medium and large law offices to establish formal pro bono policies prioritizing work that involves providing legal services to benefit low-income Wisconsin residents.
- f. Remove statutory barriers that prevent some government lawyers from providing pro bono legal services as long as the services do not conflict with their public duties. The federal government and some states have policies that could serve as models for Wisconsin.
- g. Encourage each judicial district to establish pro bono participation goals and a pro bono recognition event to honor lawyers who have provided at least 50 hours of free or substantially reduced-fee pro bono legal services to persons of limited means each year. Excellent models for these events can be found in the U.S. District Court for the Eastern District of Wisconsin, in Colorado, and in Indiana.
- h. State and local bar associations should create more prepackaged pro bono projects that local bar associations, law firms, and corporate legal departments can implement.



Beverly Wickstrom, Coordinator of the Eau Claire County Bar Association's Free Legal Clinic, testifies in Eau Claire.



Mike Goring, Quarles & Brady LLP testifies in Milwaukee.

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Marsha Mansfield, Wisconsin Access to Justice Commission on the panel in La Crosse



Hon. Margaret Vergeront, Wisconsin Access to Justice Commission, listening to testimony in Green Bay

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Two examples of worthwhile projects that are ready for replication are the Dane County Foreclosure Assistance Clinic and the Children’s Hospital of Wisconsin Guardianship Project.

i. Lawyers who cannot or choose not to provide pro bono legal services should be encouraged to donate some billable-hours cash equivalent to support civil legal services to the poor.

5. Support research into the efficacy and economic benefits of delivering civil legal services to indigent persons in Wisconsin.

The research should cover a range of delivery methods from self-help to extended service and subsets of clients (e.g., language minorities, disabled individuals, and elderly persons). Studies from other states indicate that providing civil legal services in specific areas of legal need has a positive economic effect in addition to the effect on clients’ legal situations.

6. Judges should use their authority under existing law to appoint counsel for low-income individuals when necessary to ensure the individual a fair hearing in cases involving basic human needs.

The Wisconsin Court System, the Legislature, county officials, and the Commission should work together to establish a comprehensive plan and a source of funding for this purpose. Several states have now passed legislation to study or implement pilot projects involving the appointment of counsel in certain types of civil cases. California was the first state to do so, and Illinois appears likely to be the second. Maryland’s legislature voted to create a legislative study committee on the issue.

7. The use of adequately trained and supervised nonlawyers should be expanded.

a. Domestic violence advocates are a resource for victims and courts. They should be authorized and certified to assist low-income domestic abuse victims at injunction hearings.

b. The Commission will continue to assist with the tribal court advocate training curriculum being developed by the Wisconsin Tribal Judges Association and Nicolet College.

c. Wisconsin should monitor the state of Washington’s rule allowing for [limited license legal technicians](#): nonlawyers licensed to perform specific out-of-court legal tasks.

8. Increase the availability and use of interpreters or interpretation services for individuals who need help with legal issues outside of the courtroom. This expanded language access could be accomplished in a number of different ways:

a. Additional statewide translation services should be developed, along with a plan for funding such services.

b. Encourage eligible attorneys to use the State Bar's pro bono reimbursement fund for interpreter services in their cases.

c. Provide more types of family law and small-claims forms in high-demand languages such as Spanish and Hmong.

9. Replicate successful mediation programs to reduce the complexity and cost of resolving legal disputes. In the family law area, mediation programs such as those in La Crosse, Dane, and Milwaukee Counties, among others, are models of programs that actively encourage mediation. Outside the family law area, the Wisconsin Foreclosure Mediation Network, the Dane County Bar Association's Case Mediation Program, the Mediation Center of Waukesha, and the Winnebago Conflict Resolution Center are just some examples of mediation efforts that should be replicated.



Sen. Bob Jauch and Hon. Roderick Camerson listen as Arthur Harrington speaks in Eau Claire.

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Appendix A

Public Hearings – Testimony

Green Bay Hearing – July 24, 2012

John Bermingham, Reff Baivier Berminham & Lim, S.C.
Tiffany Biedermann, Paralegal Association of Wisconsin
David Clowers, Legal Aid Society of Door County
Kimberly Haas, Wisconsin Judicare
Meghan Healy, Volunteer attorney, Winnebago County Free Legal Clinic
Jacquelyn Jarvis, Legal Action of Wisconsin - Oshkosh
Mary Lynn Larson, Concerned parent; Disability Rights Wisconsin
Robert Lepak, Concerned citizen
Sister Guadalupe Munoz, Catholic Charities – Green Bay
Monica Murphy, Disability Rights Wisconsin
Alison Petri, Manitowoc County Domestic Violence Center
Ted Phernetton, Catholic Charities – Green Bay
Sandra Popp, Options for Independent Living
Saphronia Purnell, Parents Empowering Parents; Disability Rights Wisconsin
Karen Roehl, Legal Action of Wisconsin - Oshkosh
Lu Scheer, ADVOCAP’s Homelessness Program in Fond du Lac
Scott Schnurer, Legal Action of Wisconsin – Green Bay
Nicole Sengkhammee, Catholic Charities – Green Bay,
Lue Yang, Legal Action of Wisconsin – Green Bay

Eau Claire Hearing – July 31, 2012

Sandra Ahrens, Grassroots Empowerment Project / Disability Rights Wisconsin
Emily Allen, JONAH (Joining Our Neighbors Advancing Hope)
Thomas Anderson, Concerned citizen
Kristina Aschenbrenner, Eau Claire Clerk of Court
Brian Bechard, Concerned citizen
Hon. Roderick Cameron, Chippewa County Circuit Court
Steve Dunlap, St. Croix County Family Court Commissioner
Rosemary Elbert, Wisconsin Judicare
Erica Ellenwood, Center Against Sexual & Domestic Abuse, Inc.
Steven Gibbs, Chippewa County District Attorney
Robert Hagness, Hagness Law Office
Andrew Harrington, Liden, Dobberfuhl & Harrington SC
Hon. Gene Harrington, Washburn County Circuit Court
Bob Henderson, Legal Action of Wisconsin – La Crosse
Tom Kewan, Concerned citizen
Ben Lane, President, Chippewa County Bar Association; Chippewa County Free Legal Clinic
Susan Meade, Wisconsin Judicare
Andrew Nelson, Nelson & Lindquist SC
Terry L. Nussberger, Nussberger Law Office
Mike Rust, ABC for Rural Health
Paul Savides, JONAH (Joining Our Neighbors Advancing Hope)
Timothy Scobie, Volunteer Attorney, Chippewa County Free Legal Clinic
Patricia Stein, Bolton Refuge House
Beverly Wickstrom, Richie, Wickstrom & Wachs LLP, Eau Claire & Chippewa County Free Legal Clinics
Gerald Wilkie, Bolton Refuge House
Zola Works, Legal Advocate

Madison Hearing – September 18, 2012

Betsy Abramson, Wisconsin Institute for Healthy Aging
Peter Bennett, Domestic Abuse Intervention Services
Jennifer Binkley, Community Justice Inc.
Bill Druliner, GreenPath Debt Solutions
Carlo Esqueda, Dane County Clerk of Courts
Kevin Evanco, Fountain of Life Family Worship Center
Victor Forberger, Volunteer attorney, UW Law School
Unemployment Compensation Clinic
Michael Gengler, Volunteer attorney
Tony Gibart, Wisconsin Coalition Against
Domestic Violence
Hon. Leo Grill, Sauk County Court Commissioner
Liz Hanson, People Against Domestic & Sexual Abuse
Hon. William Hue, Jefferson County Circuit Court
Brenda Konkell, Tenant Resource Center
Erin Loveland, House of Mercy, Janesville
Kevin Magee, Legal Action of Wisconsin
Lisa McDougal, State Public Defender
Karen McKenzie, UW Law School Veterans Law Center
Deborah Mishler, Concerned citizen
Bridget Mouchon, Green County UW-Extension Family
Living Agent
A. N., Domestic violence survivor
Alicia Nall, Hope House
Sarah Orr, University of Wisconsin Law School
Jahmon Patterson, Urban League of Greater Madison
Bobby Peterson, ABC for Health
T. R., Domestic violence survivor
Gricel Santiago-Rivera, UNIDOS
Nino Rodriguez, Center for Family Policy & Practice
Jessica Schafer, ECHO, Janesville
Tracey Schwalbe, Wisconsin Labor & Industry
Review Commission
Benjamin Schulenburg, Attorney
Hon. Joseph Sciascia, Dodge County Family Court
Commissioner
Jeff Spitzer-Resnick, Disability Rights Wisconsin
John Tradewell, State Public Defender
Lisa Winkler, Dane County Legal Resource Center

Milwaukee Hearing – September 13, 2012

John Barrett, Milwaukee County Clerk of Court
Shirin Cabraal, Disability Rights Wisconsin
Dawn Caldart, Milwaukee Justice Center
Julie Darnieder, Marquette Volunteer Legal Clinic
Geof Davian, Concerned citizen
Diane Diel, Attorney/ Former State Bar President
Jane Dolan, Concerned parent
Catey Doyle, Legal Aid Society of Milwaukee
Jim Duff, Milwaukee County Veterans Services
Karl Erickson, ELCA Urban Outreach Center, Kenosha
Steve Fendt, Southside Organizing Committee
Susan Fischer, Kids Matter
Rachel Forman, Grand Avenue Club
Paul Golueke, Alzheimer's Association Southeastern
Wisconsin Chapter
Mike Gonring, Quarles & Brady LLP
Martin Hying, Concerned citizen
Kyle Jesinski, Lagmann, Inc.
Temujin Kibo-Gue, Concerned citizen
Peter Koneazny, Legal Aid Society of Milwaukee
Hon. Jeffrey Kremers, Milwaukee County Circuit Court
Liz Marquardt, Sojourner Family Peace Center
E. Michael McCann, Former Milwaukee County District
Attorney / St Vincent de Paul
Judy McMullen, Marquette Law School
Jason Mishelow, Centro Legal
Joe Neterval, Nonprofit Legal Services
David Pifer, Legal Action of Wisconsin
Roberta Rieck, Legal Action of Wisconsin
Pat Risser, Legal Action of Wisconsin
James Robertson, Concerned citizen
Jessica Roulette, Legal Action of Wisconsin
Deborah Scheid, Attorney
Angela Schultz, Marquette Law School
Mark Silverman, Legal Action of Wisconsin
Diana Sullivan, IndependenceFirst
Sheila Sullivan, Legal Action of Wisconsin
Julie Turkoske, Children's Hospital of Wisconsin
Nicole Zimmer, Legal Action of Wisconsin

Wausau Hearing – October 2, 2012

Susan Abbott, Concerned citizen
David Armstrong, Wisconsin Judicare Indian Law Office
Melissa Dalkert, Portage County Legal Aid Society
James Hawkins, Wisconsin Judicare
Don Hermanson, Hermanson Law Office SC
Dorothy Kalmon, Central Wisconsin Tobacco Free Coalition
Jamie Kiener, Justice Works Family Law Information Center
Karen Lueschow, Attorney
Katherine Munck, Justice Works, Ltd., Stevens Point
Sally Olson, Domestic Violence Victim Advocate
Rebecca Paul, Portage County Legal Aid Society
Kathryn Rubino, Neighbor's Place
Jeff Sargent, North Central Community Action Program
Laura Scudiere, Bridge Community Health Clinic
Judith Stern, Wisconsin Judicare

La Crosse Hearing – October 16, 2012

Dave Aanas, Legal clinic client
Chuck Berendes, Catholic Charities of La Crosse
Kim Cable, Coulee Community Action Program
Gloria Doyle, La Crosse County Family Court Commissioner
Heidi Eglash, Attorney, Law Office of Heidi M Eglash LLC
Bob Henderson, Legal Action of Wisconsin
Dorothy Her, La Crosse Hmong Mutual Assistance Assn.
Noreen Holmes, La Crosse County Aging Unit
Scott Horne, La Crosse County Circuit Court
Renee Jacquet, New Horizons Legal Advocate
Sandra Lasko, Legal aid client
Roger LeGrand, Former La Crosse County Circuit Court judge
Edward Leineweber, Attorney & former Richland County Circuit Court judge
Hon. Michael J. Rosborough, Vernon County Circuit Court
David Russell, Attorney, Hale, Skemp, Hanson, Skemp & Sleik
Bonnie Sacii, Mediation Family Services
Nancy Scott, Social Worker – Mayo Clinic/ Safe Path Program

Appendix B

Public Hearings – List of Panel Members

Green Bay Hearing – July 24, 2012

Howard Bichler, Access to Justice Commission
Sherry Coley, State Bar of Wisconsin Board of Governors
Hon. David Keck, Winnebago County Circuit Court
Hon. David Raasch, Stockbridge-Munsee Tribal Court
Fr. Bill Ribbens, Access to Justice Commission
Hon. Margaret Vergeront, Access to Justice Commission
Hon. Donald Zuidmulder, Brown County Circuit Court

Eau Claire Hearing – July 31, 2012

Mark Aumann, Office of U.S. Representative Ron Kind
Hon. Kathy Bernier, State Assembly – 68th District
Duana Bremer, Access to Justice Commission
Hon. Molly GaleWyrick, Polk County Circuit Court
Hon. Sheila Harsdorf, State Senate – District 10
Hon. Robert Jauch, State Senate – District 25
Linda McIntyre, Community Foundation of Dunn County
Gregg Moore, Access to Justice Commission
Hon. Warren Petryk, State Assembly – 93rd District
Hon. Gary Sherman, Court of Appeals, Dist. IV
Robyn Thibado, West CAP
Michael Waterman, State Bar of Wisconsin Board of Governors

Milwaukee Hearing – September 13, 2012

Thomas Cannon, Legal Aid Society of Milwaukee
Hannah Dugan, Access to Justice Commission
John Ebbott, Access to Justice Commission
Leah Fiasca, Greater Milwaukee Committee
Ness Flores, Access to Justice Commission
Hon. Randy Koschnick, Jefferson County Circuit Court
Hon. Chris Larson, State Senate – District 7
Janan Najeeb, Milwaukee Muslim Women’s Coalition
William Richards, III, Donors Forum of Wisconsin
Hon. Patience Roggensack, Wisconsin Supreme Court

Madison Hearing – September 18, 2012

James Boll, State Bar of Wisconsin Board of Governors
Hon. Patrick Crooks, Wisconsin Supreme Court
Martha Cranley, United Way of Dane County
Hon. Amy Loudenberg, State Assembly – 31st District
Rich Lynch, J.H. Findorff & Son, Inc.
Marsha Mansfield, Access to Justice Commission
John Molinaro, Jefferson County Board of Supervisors
Kelly Nickel, State Bar of Wisconsin Board of Governors
J. Russell Podzilni, Rock County Board of Supervisors
Roger Putnam, Putnam Roby Williamson Communications
Blaine Renfert, Foley & Lardner

Wausau Hearing – October 2, 2012

Jocelyn Berkhahn, Constituent Services Director, U.S. Representative Sean Duffy

Howard Bichler, Access to Justice Commission

Hon. Ann Walsh Bradley, Wisconsin Supreme Court

Rosemary Elbert, Wisconsin Judicare

Hon. Frederic Fleishauer, Portage County Circuit Court

Don Friske, Access to Justice Commission

Eric Giordano, UW – Marathon County

Rep. Louis J. Molepske, Jr., 71st Assembly District

Hon. Michael Moran, Marathon County Circuit Court

Maurice Rice, Access to Justice Commission

La Crosse Hearing – October 16, 2012

Tom Bice, Trempealeau County Board

Hon. Jill Billings, State Assembly – 95th District

Hon. Chris Danou, State Assembly – 91th District

Hon. Steve Doyle, State Assembly – 94th District

Hon. Ramona Gonzalez, La Crosse County Circuit Court

Chuck Hanson, Hale, Skemp, Hanson, Skemp & Sleik

Hon. Paul Lundsten, Court of Appeals, District IV

Marsha Mansfield, Access to Justice Commission

Gregg Moore, Access to Justice Commission

Hon. Michael Rosborough, Vernon County Circuit Court

Hon. Margaret Vergeront, Access to Justice Commission

Suzanne Witt, Logistics Health Corporate Counsel

Appendix C



CIVIL LEGAL SERVICES IN WISCONSIN

Helping Those Who Cannot Help Themselves

State funding for Wisconsin's civil legal services programs helps low-income individuals and families who cannot help themselves due to illness, age, abuse, disability or the complexity of their problem. The people served are:

- Victims of domestic violence and others who need protection from abuse
- Facing the loss of their home due to illegal evictions and foreclosures
- Seniors who want to live in dignity and security
- Disabled residents who need protection and advice
- Families with health and disability issues
- Veterans and service members who need a little extra help
- Children and families trying to rebuild their lives

A Cost-Effective Investment

For every \$1 of state civil legal services appropriation funding, Wisconsin's civil legal services providers have a track record of recovering over \$10 for their clients in the form of child support, maintenance, federal benefits, security deposits and more.

Helping people resolve legal problems early also means avoiding higher costs later:

- Fewer emergency room visits, shelter stays and police calls for abuse victims,
- Higher property values for neighborhoods when unsafe living conditions are remedied or unlawful foreclosures are stopped and people can remain in their homes
- Increased child support payments reduces the need for public benefits
- Barriers to employment are removed, reducing claims for unemployment and other benefits
- Veterans who get the benefits they're due can contribute more to our state's economy
- Children in safer, stable families can focus on learning

State funding for civil legal services pays dividends in other ways too. It helps legal services nonprofits obtain other federal and private grants, because the state's contribution can be used to meet the matching or overhead requirements of those grants.

Moving Wisconsin Forward

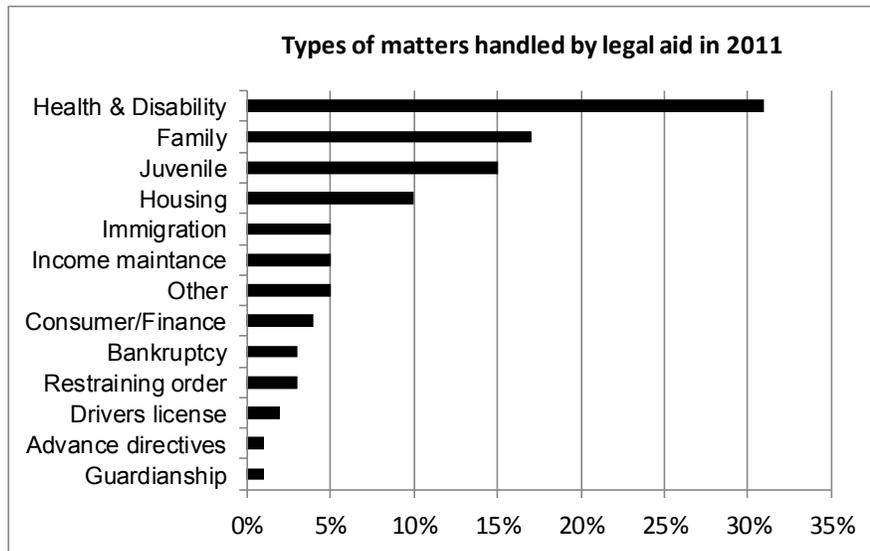
- Other Midwestern states budget an average of \$7.6 million per year for civil legal services to the indigent.
- Wisconsin is one of only four states with \$0 in the state budget for civil legal services to the indigent.

Meeting Critical Needs

Even before the recent economic downturn, more than 500,000 low-income residents regularly faced a critical civil legal problem – loss of a home or loss of income or disability benefits, for example -- without any legal assistance. Two-thirds of low-income households with children are left to cope with a critical civil legal problem without any help.

The recession has widened the justice gap. Low-income people feel the effects of recession well before the middle class and their civil legal problems begin to cascade from bad to worse as they begin to lose employment and are forced into homelessness or unsafe living situations.

The recession has also left many formerly middle-class people out of work, leading to foreclosure, bankruptcy, evictions and a host of other problems that they cannot handle alone.



Joining Other Stakeholders

A broad range of individuals and groups have made the commitment to invest time and money in access to justice. The State of Wisconsin should join them.

- Wisconsin lawyers, judges and justices pay a \$50 annual fee that provides over \$800,000 in support for civil legal services.
- Lawyers, judges, law firms and businesses contribute \$300,000 annually to the Wisconsin Equal Justice Fund.
- In 2012, Wisconsin lawyers in private practice donated over 100,000 hours of free legal service to the poor.
- The federal Legal Services Corporation provided \$4 million in 2012 to fund civil legal services programs in Wisconsin (down 17% from 2011).
- Wisconsin banks provided \$250,000 from the interest on lawyers trust accounts to the Wisconsin Trust Account Foundation for grants to civil legal services organizations in 2012 (down 84% since the recession as interest rates collapsed).



INVESTING IN CIVIL LEGAL SERVICES FOR ABUSE VICTIMS

THERE IS A COST-EFFECTIVE SOLUTION

Timely and appropriate legal assistance for abuse victims can make the difference between a person who is able to start down the road to recovery and one who is more vulnerable to further abuse.

- Victims get the benefit of timely and appropriate legal assistance to protect their rights
- Adult victims lose less time from work, and all victims use fewer law enforcement, health and other services
- Courts benefit from clear and complete legal papers, reducing delays, confusion and costs for everyone

OUR PROPOSAL

- Appropriate a modest \$3 million in GPR funding over the 2013-2015 biennium to provide legal assistance that helps low income Wisconsin abuse victims resolve their civil legal issues in Wisconsin courts and agencies.
- The Wisconsin Trust Account Foundation (WisTAF) is willing to act as the program administrator at no cost to the state to review grant applications from community based organizations throughout the state that wish to provide the services authorized. WisTAF has over 20 years of experience with reviewing grant applications for legal services to low income clients, including targeted legal services funding from the State of Wisconsin.

WISCONSIN'S CHALLENGE

- **38,803** victims served by Wisconsin's domestic violence agencies in the 12 months prior to September 2012.
- **28,539** domestic abuse incidents reported to Wisconsin law enforcement and referred to district attorneys' offices in 2011.
- **6,411** domestic abuse restraining order petitions filed in Wisconsin's circuit courts in 2012.
- **90%** of domestic abuse victims have to go without legal assistance to help them with their restraining order petition or injunction hearing. Most are also on their own dealing with the legal fallout related to any children, the marriage or assets.
- **\$100 million** in estimated annual economic costs from domestic abuse in Wisconsin for health care, lost productivity and lifetime earnings according to data from the Centers for Disease Control and Prevention (CDC). Costs for law enforcement and county courts are also substantial.
- **1,698** children in unsafe conditions had to be removed from their homes by Child Protective Services in 2011.
- **957** child abuse temporary restraining orders were filed in Wisconsin courts in 2012.
- Most people seeking child abuse restraining orders or juvenile guardianships must do so without legal assistance.
- **\$46 million** in estimated annual economic costs from child abuse in Wisconsin for health care, lost productivity and government services according to data from a CDC study. Adoption subsidies and other state/county program costs will significantly raise this estimate.