


# Arizona Commission on Access to Justice

## Meeting Agenda

February 7, 2018 - 10:00 a.m. to 2:00 p.m.
State Courts Building ♦ 1501 West Washington ♦ Conference Room 119 ♦ Phoenix, Arizona
ACAJ WEBPAGE

| TIME | AGENDA ITEM | PRESENTER |
|---|---|---|
| 10:00 a.m. | **Welcome and Opening Remarks**<br>**Introduction of new members** | *Judge Lawrence F. Winthrop, Chair* |
| | **Introduction of Chief Justice** | *Chief Justice Bales* |
| * Pg. 3 | **Approval of minutes from November 8, 2017**<br>☐ ***Formal Action/Request*** | |
| 10:05 a.m. | **Chairperson's report** | *Judge Winthrop* |
| 10:20 a.m.<br>* Pg. 13 | **Report on the Justice in Government Project**<br>• First Annual Report of the White House Legal Aid Interagency Roundtable (LAIR)<br>○ Full version<br>○ Summary | *Karen Lash, American University* |
| 10:55 a.m.<br>* Pg. 33 | **Update on Online Dispute Resolution Software** | *Marcus Reinkensmeyer, AOC Court Services Division Director* |
| 11:35 a.m.<br>* Pg. 35 | **Report from the Self-Represented Litigants in Limited Jurisdiction Courts Workgroup** | *Judge Anna Huberman* |
| 11:50 a.m.<br>* Pg. 37 | **New Rule Change Petitions**<br>☐ ***Formal Action/Request*** | *Judge Huberman* |

The Chair may call items on this Agenda, including the Call to the Public, out of the indicated order. Please contact Kathy Sekardi (602) 452-3253 with any questions concerning this agenda. Persons with a disability may request reasonable accommodations by contacting Julie Graber at (602) 452-3250. Please make requests as early as possible to allow time to arrange accommodations.

11:55 a.m. **Update on Rule Petitions** *Julie Graber, AOC Staff*

* Pg. 47

- **R-16-0022 – Change of Judge in Eviction Actions:** Adopted on a permanent basis, effective January 1, 2018.

11:55 a.m. **Update on the Public Information and Messaging Workgroup** *Rick DeBruhl, Heather Murphy*

* Pg. 49

12:00 p.m. **Update on the AZCourtHelp.org website** *Dr. Kevin Ruegg, Theresa Barrett, AOC*

* Pg. 51

**Lunch Break**

1:00 p.m. **Report regarding Access to Justice in Tucson and in Federal Court** *Stacy Butler*

* Pg. 53

1:30 p.m. **Report from the Judicial and Attorney Engagement Workgroup** *Judge Joseph Kreamer, Kevin Groman*

* Pg. 55

1:55 p.m. **Good of the Order / Call to the Public** *Judge Winthrop*

Future meeting dates:
**May 23, 2018**
**September 19, 2018**
**November 14, 2018**

Adjournment

**2018 Meeting**
**May 23, 2018**

10:00 a.m. to 2:00 p.m.
State Courts Building, Phoenix, Arizona
Conference Room 119

The Chair may call items on this Agenda, including the Call to the Public, out of the indicated order. Please contact Kathy Sekardi (602) 452-3253 with any questions concerning this agenda. Persons with a disability may request reasonable accommodations by contacting Julie Graber at (602) 452-3250. Please make requests as early as possible to allow time to arrange accommodations.

**Arizona Commission on Access to Justice**
**DRAFT MINUTES**
**Wednesday, November 8, 2017**
**10:00 a.m. to 2:00 p.m.**
**State Courts Building, 1501 W. Washington Street, Conf. Rm. 119A/B, Phoenix, AZ 85007**

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**Present:** Judge Lawrence Winthrop (chair), Kip Anderson (*telephonic*), Judge Janet Barton, Mike Baumstark, Judge Thomas Berning (*telephonic*), Pamela Bridge, Millie Cisneros, Judge Maria Elena Cruz, Judge Anna Huberman, Chris Kelly (*proxy for Michael Jeanes*), Judge Joseph C. Kreamer, Maria Morlacci, John Phelps, Helen Purcell, Janet K. Regner (*telephonic*), Dr. Kevin Ruegg, Anthony Young (*telephonic*)

**Absent/Excused:** Judge Sean Brearcliffe, Michael T. Liburdi

**Presenters/Guests:** Allister Adel, Summer Dalton, Kevin Groman, Lara Slifko, Martha McConnell, Judge Paul McMurdie, Heather Murphy, Kay Radwanski, Judge Carol Scott Berry, Dr. Susan Trentham

**Administrative Office of the Courts (AOC) Staff:** Theresa Barrett, Julie Graber, Kathy Sekardi

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## I. REGULAR BUSINESS

### A. Welcome and Opening Remarks

With a quorum present, the November 8, 2017, meeting of the Arizona Commission on Access to Justice (ACAJ) was called to order by Judge Lawrence Winthrop, chair at 10:04 a.m.

### B. Approval of Minutes

Judge Winthrop presented the September 20, 2017, Arizona Commission on Access to Justice meeting minutes for approval.

**Motion:** Judge Joseph Kreamer moved to approve the September 20, 2017, meeting minutes, as presented. **Action:** Approved. **Seconded:** Helen Purcell. **Vote:** Unanimous.

## II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

### A. Chairperson's Report

Judge Winthrop updated members on access to justice topics.

- Several presentations were made to the Arizona Judicial Council (AJC), Presiding Judges, Phoenix Soroptimists, and In-House Counsel *Pro Bono* Commission.
- Judge Winthrop encouraged members to identify one or two groups where a presentation can be given about the need for meaningful access to justice

and availability of the state income tax credit. A power point presentation, speaking notes, and a tax credit flyer are available for member use.

- Funding for the Legal Services Corporation (LSC) remains uncertain and alternate funding sources are needed.
- The "Last Word" column in the December issue of Arizona Attorney is devoted to the work of the commission and the tax credit.
- The 2017 annual report was released and it has been well-received.
- Step Up to Justice in Tucson was awarded first prize and $15,000 by the McGuire Center for Entrepreneurship in its first Social Impact Pitch Competition.
- The University of Arizona is hosting an Access to Justice Project Launch on November 15 with students presenting proposed solutions to reduce or eliminate access to justice barriers created by domestic violence, minor guardianship, and reentering society following incarceration.

**B. Update from the Committee for an Interim Review of the Child Support Guidelines**

Judge Paul McMurdie, Court of Appeals, Division 1, and chair of the Committee for an Interim Review of the Child Support Guidelines, provided some background information regarding the child support guidelines review process, and presented proposed recommendations that incorporate changes to state law, federal regulations, and case law before the 2019 quadrennial review. This interim review is very narrow in scope and only covers non-controversial changes. An online public comments forum was created and a public hearing was held for transparent vetting and feedback. The proposed recommendations will be presented on an expedited basis to the Arizona Judicial Council (AJC) at the December meeting and become effective April 1, 2018. The Committee on Superior Court voted to support the proposed recommendations. Judge McMurdie reviewed the issues that were addressed.

1. The increase in the Arizona minimum wage impacts the self-support reserve, which could result in a 37 percent increase in child support.
2. There is new federal guidance on the imputation of income.
3. There is new federal guidance on incarceration and the ability to pay.
4. The child support order should be rounded to the nearest dollar.
5. There was a global change of terminology to make the guidelines more user-friendly.
6. Additional instructions and an example were added for third-party caregivers.
7. Clarification for calculating appropriate child support was added to those situations when there are multiple children with different parenting plans.
8. Propose that a child support order should not be entered if it is less than the current support payment clearinghouse fee.

Member comments

- Do the guidelines address situations where the remarrying parent is more affluent that the other? The guidelines are based on the federal requirements.
- Was this review sent to the State Bar of Arizona's Family Law section? Why has this review been brought to ACAJ? Judge McMurdie clarified that the review was sent for comments to the State Bar of Arizona. The committee was asked to make a presentation to ACAJ because 80 percent of family law litigants are self-represented litigants navigating the family law courts.
- In 2(H), there is a reference to "physical custody." Should the term be changed to "parenting time"? Yes, the change will be incorporated.
- At the time of sentencing, notification should be given to the parent who is going to prison that there is an option to file a petition to modify child support due to a change in circumstance; otherwise, child support amounts will continue to accrue during incarceration.

**Motion:** Judge Joseph Kreamer moved to support the proposed child support guidelines recommendations, as presented. **Action:** Approved. **Seconded:** Judge Janet Barton. **Vote:** Unanimous.

**C. Report from the Committee on the Impact of Domestic Violence and the Courts**

Judge Carol Scott Berry, Phoenix Municipal Court, and chair of the CIDVC Orders, Enforcement and Access Workgroup provided background information on this project, which was originally referred to the Committee on the Impact of Domestic Violence and the Courts (CIDVC) by ACAJ. The project was intended to provide greater access to protective orders for victims of domestic violence to prevent tragedies, remove obstacles, provide safe locations, and to assist Arizona courts in establishing protocols for remote protective orders.

The workgroup developed procedures for using remote access technology to allow domestic violence victims to participate by video in *ex parte* protective order hearings in the form of guides, which provide information about safe Internet communications and transfer of documents, and set out the roles for law enforcement, advocates, and the court. Courts are encouraged to take the lead, determine community resources, establish safe communications between the courts and community resources, and between courts and law enforcement, and establish a law enforcement protocol. To address the needs of all courts, remote processes from Phoenix Municipal Court and Graham County Justice Court were combined. During this project, Judge Wyatt Palmer from Graham County Justice Court, demonstrated this procedure and established in two months a remote process between his court and the Graham County Safe House. Judge Berry identified some issues that may cause a delay in the process, including availability of judges and interpreters. She also reported that CIDVC is developing a plan to

inform courts, advocates, and law enforcement agencies about the guides and to promote use of these procedures.

Member comments:

- Who can an agency contact about establishing a remote petition process? The presiding judge at any court.
- When a court takes the lead and selects an agency, it should look at agencies geographically to cover the most ground.
- Has the procedure been shared with tribal courts? That is a good idea that will be shared with the AOC Legal Department.
- Has there been an increase in filings since the remote procedure has been in place? The remote procedure has not been promoted.
- It is a challenge to meet interpreter demand because interpreters must be certified court interpreters, not family members.
- When filling out the petition, which system is the petitioner using? Petitions are being completed by hand with the advocate and faxed back and forth. A member suggested using the domestic violence prompt system and transmitting into the judge's queue, which would also help law enforcement.
- Concerns were raised that if buy-in is not obtained from all Maricopa courts, workload will increase for a specific court.
- A member suggested moving ahead and presenting to the Committee on Limited Jurisdiction Courts to see if the process would work even if it is only on a pilot basis in a few locations.

**D. In-House Counsel *Pro Bono* Commission**

Kevin Groman, In-House Counsel *Pro Bono* Commission, provided background information regarding the In-House Counsel *Pro Bono* Commission and discussed efforts to breakdown impediments, such as time is not their own, malpractice insurance protection, and double certification issue; to get the right people involved; and to identify opportunities that are good for the attorney's skill sets.

Judge Winthrop commended the synergy involved when access to justice can be promoted across the business community.

**E. Update on Online Dispute Resolution Software**

Summer Dalton, AOC manager of the eCourt Services Unit, provided an update on the progress of online dispute resolution (ODR) software. The AOC is moving toward a proof of concept with the goal to run three pilot programs simultaneously. Request for bids are due November 17, 2017, and once a vendor is selected, pilot groups will be identified for family law (Yuma County Superior Court), small claims and traffic case types.

Judge Winthrop reminded members that ODR provides more efficiency and a higher level of participation because it allows the user to manage a case outside

the courtroom from a computer or mobile device when it is convenient for the user.

Member comments:

- Maricopa County Superior Court is considering ODR for post-decree family law and civil debt collection case types.
- A member inquired whether states are using ODR for eviction cases. Ms. Dalton is not aware of any at this time.

**F. Report from the Self-Represented Litigants in Limited Jurisdiction Workgroup**

Judge Anna Huberman reported on the increased web traffic to the Arizona Judicial Branch's eviction-related webpages, which were redesigned with the user in mind.

- As of September 5, 2017
  - 169 page views and 129 unique page views to the Eviction Actions webpage (where new eviction forms were posted as recommended forms)
  - 59 page views and 46 unique page views to the Legal Info Sheets webpage
- As of November 6, 2017
  - 519 unique page views to the Eviction Actions webpage
  - 218 unique page views to the Legal Info Sheets webpage

The workgroup's next project is to develop eviction video content using GoAnimate software. Scripts have been assigned to workgroup members with a deadline of January 1, 2018, and the goal is to produce and post five or six new videos by April 2018 to AZCourtHelp.org and the Arizona Judicial Branch website.

**G. Update on Rule Petitions**

Julie Graber, AOC staff, reported on the progress of rule petitions at the August Rules Agenda.

- **R-16-0040** – Mandatory Eviction Action Forms: Continued until the December Rules Agenda.
- **R-17-0020** – Stipulated Judgments in Eviction Actions: Adopted and effective January 1, 2018.
- **R-16-0022** – Change of Judge in Eviction Actions: Continued until the December Rules Agenda.
- **R-17-0016** – Computing Time in Eviction Actions: Adopted and effective January 1, 2018.
- **R-17-0011** – In-House Counsel Clean-Up: Adopted and effective January 1, 2018.
- **R-16-0047** – In-House Counsel Clean-Up: Adopted and effective January 1, 2018.

**H. Update on Public Information and Messaging Workgroup**

Heather Murphy reminded members about the workgroup's focus areas, which include promoting AZCourtHelp.org, providing outreach and presentations to the community, and developing opportunities for partnerships. Ms. Murphy reported on the workgroup's ongoing efforts to develop a monthly series on various legal information topics on KJZZ to mark the 50th Anniversary of the Federal Public Broadcasting Act, and to develop a podcast series moderated by Supreme Court Justices with topics in keeping with the editorial calendar.

Ms. Murphy noted that a statewide memorandum was issued to court administration to add links to AZCourtHelp.org on court websites. A letter will also be drafted to mark the anniversary of AZCourtHelp.org's launch. She requested that members contact her with stories that would be good to pitch to the media in keeping with the editorial calendar.

**I. Update on the AZCourtHelp.org website**

Dr. Kevin Ruegg updated members on the progress of the AZCourtHelp.org website. She reported that there have been 28,835 unique users since the launch.

- The website can house content and forms from smaller courts who do not have a website presence.
- New content has been added regarding evictions.
- Fillable fee waiver and deferral forms have been posted.
- Parenting plans have been populated.
- New PowToons videos are being finalized regarding evictions, the cans and cannots of court, to hire or not hire a lawyer, and preparing for court.
- There are two new chat operators: Yavapai and Yuma. The chat function has changed its hours to 9:00 a.m. to 2:00 p.m. when there is the most traffic.

**J. Report from Inter-Governmental Collaboration Workgroup**

Judge Winthrop reported on the workgroup's next steps based on input received from the Governor's Office. He identified two main areas of focus: 1) working with the executive branch to reduce barriers for those reentering the community and workforce to meet employment shortages in construction and trucking; and 2) supporting the Governor's challenge to do more for domestic violence victims. Judge Winthrop suggested having Karen Lash attend the February 7, 2018 commission meeting to discuss interagency collaboration and the multi-state pilot project.

**K. Report from the Judicial and Attorney Engagement Workgroup**

Judge Joseph Kreamer noted that the workgroup is meeting on November 16, 2017. Dr. Kevin Ruegg discussed initial findings regarding the 2017-2018 legal needs survey and the various ways information is being gathered to obtain the most complete perspective on the needs and solutions. Dr. Ruegg reminded members that the survey results will help set specific priorities.

**L. Report from County Bar Associations**

Dr. Susan Trentham, Pima County Bar Association, and Allister Adel, Maricopa County Bar Association, highlighted several bar programs and discussed their respective bar's interests in access to justice. The presenters welcomed the opportunity for Judge Winthrop to come speak at their Foundations about the commission's work and access to justice issues.

**M. *Pro Bono* Survey from the American Bar Association**

John Phelps and Rick DeBruhl compared national and state results from the *Pro Bono* Survey conducted by the American Bar Association (ABA). The presenters noted that the ABA defined *pro bono* very broadly in the survey. They also discussed cultural and statutory barriers to performing *pro bono* hours. Highlights included:

- 39 percent of Arizona attorneys and 48 percent nationally reported not performing any *pro bono* hours.
- 72 percent of Arizona attorneys and 80 percent nationally performed less than 50 hours per year.
- Attorneys under the age of 29 do the least *pro bono* while attorneys over 65 do the most. Women do more *pro bono* early in their career while men do more later in their career.
- The top three practice areas for doing more *pro bono* include family law, criminal law, and estate/probate.
- The top three reasons for limited *pro bono* include lack of time, family and personal concerns, and lack of skills, while CLE credit, judge solicitation, and limited scope are reasons to do more.
- Limited scope representation represents the biggest area for growth opportunity but there are often questions regarding the ethical aspects of limited scope representation.

Member comments

- A possible area of improvement includes educating public attorneys about what they can do and how to do it, which should then be followed up with office leadership.

## III. OTHER BUSINESS

**A. Good of the Order/Call to the Public**

None present.

Dr. Kevin Ruegg reported that the Foster Care Review Board is experiencing an extreme shortage of volunteers to serve on county boards.

**B. Next Meeting Date**

Wednesday, February 7, 2018
10:00 a.m. to 2:00 p.m.
State Courts Building, Room 119
1501 W. Washington Street
Phoenix, AZ 85007

Adjourned at 1:58 p.m.





## Support Access to Justice through the Arizona Charitable Tax Credit

Roughly 25% of Arizonans have an income stream that qualifies them for free civil legal aid services. But, for every 3 people in Arizona who realize they have a legal problem and contact a legal aid office, **2 must be turned away because of a lack of resources.**

## YOU CAN DECIDE HOW YOUR TAX DOLLARS ARE SPENT

**Charitable Tax Credit** donations directly reduce the amount you owe and let you direct where your funds go!

You can help more people receive services by designating where $400 (single) or $800 (married filing jointly) of your taxes owed go! **Give to an approved legal aid agency** (see other side) and the amount you give will reduce the tax you owe.

**That simple.**



For more information on the Charitable Tax Credit visit the Arizona Department of Revenue at www.azdor.gov. This credit is in addition to the school tax credits. Please consult your tax advisor for details



To make a donation go online to www.azflse.org/legalaid

## 2017-2018 Participating Civil Legal Aid Partners
## Approved by the Arizona Department of Revenue

**Arizona Justice Project**

**Arizona Legal Women and Youth Services**

**Christian Legal Aid of Arizona**

**Community Legal Services, Inc.**

**Defenders of Children**

**DNA People's Legal Services**

**Florence Immigrant and Refugee Rights Project**

**Never Again Foundation**

**Southern Arizona Legal Aid, Inc.**

**Step Up To Justice**

**Tucson Family Advocacy Program (SALA)**

**William E. Morris Institute for Justice**

I am joining the Campaign– Justice with Arizona Charitable Tax Credit!

**Donate online at www.azflse.org/legalaid**

Donate by April 15th and you'll have the added satisfaction of knowing your money is helping Arizona's working poor get the legal assistance they need to solve housing, health care and benefits challenges. You no longer need to itemize deductions to claim this credit!

Arizona Commission on Access to Justice

| Meeting Date: | Type of Action Requested: | Subject: |
|---|---|---|
| February 7, 2018 | ☐ Formal action or request<br>☒ Information only<br>☐ Other | Report on the Justice in Government Project |

From: Karen Lash, American University

Presenters: (Same)

Discussion: Ms. Lash will discuss the Justice in Government Project and how states can use approaches developed by the White House Legal Aid Interagency Roundtable (LAIR) and adapt them to state government. Arizona is one of several states participating in a pilot project to identify those state programs that help low-income and other vulnerable populations that currently do not include legal aid as partners, but could improve effectiveness if they did. Often policymakers are not aware that many existing federal block grants administered by the state expressly allow – and often encourage -- including civil legal aid services among the social services provided.

Recommended motion: None.

**Justice in Government Workgroup**

**Summary and Next Steps**

November, 2017

Thank you so much for participating in an energizing and thought-provoking meeting about how we might work together to further shared goals as it relates to access to justice, improving state government and advancing the economic interests of Arizona.

Over the last month, we have identified specific issues and potential collaborative projects where strategically increasing civil legal aid opportunities and resources can advance Governor Ducey's top priorities, and to document gaps in existing services that currently hinder progress towards achieving those policy goals. As noted in our meeting, two specific examples include: 1) helping job seekers with criminal records secure employment, which in turn can assist statewide economic growth by reducing qualified worker shortages in key industries; and 2) taking steps to break the cycle of violence and improve public safety by helping victims of domestic violence and other crimes. Intergovernmental collaboration to address both of these issues not only advances Governor Ducey's priorities but also increases access to justice.

## 1. Removing obstacles to employment for jobseekers with criminal records.

*"I'm announcing an effort of the Governor's Office, to engage the faith and non-profit communities in being advocates for our citizens leaving prison and transitioning back into society."*[1]

Arizona has identifiable worker shortages in several industries, including construction and trucking.[2] A recent article reports that about 75 percent of Arizona contractors polled say they are having a "hard time" filling hourly construction jobs, and one of the contributing factors is information they discover in a background check.[3]

Having any sort of criminal record can be a significant barrier to entry/re-entry into the work force. National studies indicate that about 1 in 3 American adults have a criminal record.[4] An estimated 1.5 million Arizona adults have arrests or convictions on their records.[5]

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[1] Governor Doug Ducey, State of the State Address (Jan. 9, 2017).
[2] *See 2017 Workforce Survey Results: Arizona*, The Associated General Contractors of America (2017), https://www.agc.org/sites/default/files/Files/Communications/2017_Workforce_Survey_Arizona.pdf; Casey Kuhn, *Construction Skilled Labor Shortage Persists in Arizona*, KJZZ 91.5 (Aug. 30, 2017), https://kjzz.org/content/526322/construction-skilled-labor-shortage-persists-arizona; Ryan Randazzo, *Trucker Shortage Means Thousands of Available Jobs*, AZCENTRAL (Nov. 27, 2015), http://www.azcentral.com/story/money/business/jobs/2015/11/29/trucker-shortage-hiring-jobs-employment-trucking-arizona/75674426.
[3] *See* Catherine Reagor, *Arizona Doesn't Have Enough Construction Workers; Contractors Paying Higher Wages*, AZCENTRAL (Aug. 29, 2017), http://www.azcentral.com/story/money/business/jobs/2017/08/29/arizona-shortage-of-construction-workers-contractors-paying-higher-wages/609418001; Kuhn, *supra* note 2.
[4] *See* Jo Craven McGinty, *How Many Americans Have a Police Record? Probably More Than You Think*, WALL ST. J. (Aug. 7, 2015), https://www.wsj.com/articles/how-many-americans-have-a-police-record-probably-more-than-you-think-1438939802.
[5] Ariz. Exec. Order No. 2017-07 (Nov. 6, 2017) (The establishment of Arizona as a Second Chance Employer)

Employment is one of the most significant indicators of success in decreasing recidivism, helping families become self-sufficient and increasing public safety.[6] In the hiring process, however, many employers have access to and routinely use data mining practices to check government records, which in turn can reveal past convictions, even those from many years earlier and/or concerning what may simply be a youthful "mistake": an often remote and relatively minor, victimless offense, including unresolved traffic and parking tickets. The availability of such records can make it very difficult—if not impossible—for many people to secure employment,[7] or even equal access to housing. Rigid hiring protocols, particularly in the public sector, not only exacerbate worker shortage problems for employers, but also frustrate the "second chance" opportunity our justice system presumes is available for those who have paid their debt to society, and the policy objectives Governor Ducey seeks to advance.

The Governor's Office has recently taken two significant steps to address this issue. First, a preliminary survey to determine individual agency application/hiring practices concerning use of prior conviction data was sent to those agencies involved in issuing occupational licenses. If the agency could not identify a legitimate state interest in seeking such information, the Governor's staff indicated appropriate action would be taken to eliminate requiring the applicant to provide such information. Second, the Governor has now issued Executive Order 2017-17, establishing Arizona as a "Second Chance Employer." Unless required by existing state or federal law, the Arizona Department of Administration and the various state agencies involved in the hiring

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[6] *Id.*

[7] Jahna Berry, *Criminal Pasts Haunt Desperate Job Seekers*, THE ARIZ. REPUBLIC (June 13, 2012), http://archive.azcentral.com/arizonarepublic/news/articles/20120613criminal-pasts-haunt-desperate-job-seekers.html.

process are prohibited from requiring an applicant to disclose a criminal record, either in the written application or in an initial interview. Thereafter, as appropriate, the potential state employer can inquire about the existence of such a record. This approach is consistent with equal access to justice. Strengthening "second chance" opportunities for these job applicants not only fulfills the presumptive rehabilitation promise of our justice system, but also helps employers fill worker shortages and expand growth in our economy.

If otherwise qualified Arizonans can't get jobs, they can't meet the financial needs of their families and, as noted above, the likelihood of recidivism is increased. In turn, the burden on government to provide public safety, emergency food, shelter and medical care is likewise increased. Such outcome also impedes Governor Ducey's twin economic policy goals of growing the economy and helping qualified people with records secure meaningful employment. At the same time, employers are also missing out on a huge pool of prospective qualified employees, which is a barrier to solving unmet hiring needs. Ironically, some studies even show that, by comparison, people with criminal records can be *more* productive employees.[8]

Arizona does not allow expungement of criminal convictions; however, the law does provide that a court may, for good cause, vacate or set aside a criminal conviction. The majority of people eligible for some version of clearing, sealing, or setting aside their criminal record, however, fail to do so either because they aren't aware of what the law allows, or they don't know how to apply for such assistance. Madeline Neighly of the nonpartisan Council of State Governments Justice Center

[8] Lewis Lustman, *Could a Job Candidate with a Criminal Record Turn out to be Your Best Employee?*, HIRERIGHT (July 18, 2016), http://www.hireright.com/blog/2016/07/could-a-job-candidate-with-a-criminal-record-turn-out-to-be-your-best-employee.

explained in a recent televised segment that "[a] lot of people might be eligible [for an expungement], but they might not know . . . . They might not have access to the paperwork or someone to walk them through the process. They usually need civil legal aid."[9]

While the Governor has not yet explicitly identified setting aside convictions in appropriate cases as a specific policy goal, it is uncontested that assisting the many individuals who are eligible for such a set aside would significantly reduce barriers to potential employment, and thus advance not only equal access to justice but also the economic goals identified by the Governor's Office.

Community Legal Services has already started offering community clinics to assist Arizona residents in this regard. In 2016 alone, CLS helped 159 individuals with this process. So far this year, CLS has helped over 400 individuals either learn about the process or has actually assisted them in seeking to vacate or set aside a criminal conviction. In addition, over the last 19 months, volunteer lawyers have answered 142 questions dealing with qualification and the process for securing a set aside of a prior conviction. This nascent effort by Arizona's legal aid and private attorney volunteer community demonstrates that, with only minimal outreach, the demand for legal help with past criminal records is growing. The data highlights the critical assistance Arizonans need to obtain set asides, and the value of legal aid in helping our citizens move forward with securing a productive future.

With proper support, Arizona's civil legal aid programs can help achieve the Governor's goals to address the worker shortages and assist qualified job applicants by helping those eligible obtain a criminal record

[9] Rebecca Beitsch, *Here's Why Many Americans Don't Clear Their Criminal Records*, PBS (June 8, 2016), http://www.pbs.org/newshour/rundown/heres-why-many-americans-dont-clear-their-criminal-records.

set aside; by helping remove errors or duplications from "rap" sheets; by helping to reinstate a revoked or suspended driver's license; by removing potential barriers to applying for an occupational license; and by helping modify child support orders consistent with ability to pay and avoiding a prospective employer's need to implement wage garnishment.

It should also be noted that providing legal help to citizens as they try to work through the administrative process or court procedures also reduces the communication issues and inefficiencies associated with applicants attempting to represent themselves in any of these proceedings.

**Next steps:** We propose exploring potential collaborations between Arizona's civil legal aid programs and any of the 47 local offices making up the Arizona@Work state workforce development network. This could be particularly appropriate in light of studies that show the connection between legal help that mitigates the impact of a criminal record and improvement in job prospects,[10] as well as the recent U.S. Department of Labor Workforce Innovation and Opportunity Act (WIOA) rule that not only allows—but in fact expressly urges—states to add legal aid to the supportive services "necessary to enable an individual to participate" in WIOA activities.[11] A pilot program of this kind has the added benefit of providing yet another innovative workforce solution to

[10] *See, e.g.*, Jeffrey Selbin et al., Unmarked? Criminal Record Clearing and Employment Outcomes, 108 J. CRIM. L. & CRIMINOLOGY 1 (2017), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2486867.

[11] Workforce Innovation and Opportunity Act, 81 Fed. Reg. 56072, 681.570 (Aug. 19, 2016), https://www.gpo.gov/fdsys/pkg/FR-2016-08-19/pdf/2016-15975.pdf. The Department of Labor's preamble to the final rule implementing titles I and III of WIOA states, the Department concurs "that legal aid can uniquely address certain barriers to employment," as enumerated by the commenter. Therefore, the Department has included legal aid services under § 680.900 and made a corresponding change to the list of supportive services allowable in the youth program in § 681.570. *Id.* at 56158.

the existing excellent services and resources the state now provides for job seekers to identify, prepare for and keep the right job.

We also note that an excellent opportunity exists in Arizona to collaborate with and enhance other potential avenues of assistance concerning job seekers with criminal records. For example, the Clean Slate Clearinghouse—a new DOJ and DOL funded tool created by the Council for State Governments—helps support juvenile and adult criminal record clearance around the country by giving policymakers the information they need to compare their state's record clearance policies to those of other states and to learn about best practices.[12] For example, Indiana has recently experienced good results utilizing this approach. It might be useful to study systemic changes undertaken in Indiana and other states that could likewise help further the Governor's stated goals concerning providing a meaningful "second chance" while also addressing employment and economic development issues.

## 2. Break the cycle of violence and improve public safety by helping victims of domestic violence.

*"I encourage Arizonans to stand with me as we send the unwavering message that domestic violence can stop."*[13]

The Arizona Coalition to End Sexual and Domestic Violence website documents the tragic reality that, in Arizona, someone dies in a domestic violence related incident every three days. Governor Ducey in his 2016 "Light Arizona Purple" remarks noted that domestic violence in

[12] *See About the Clean Slate Clearinghouse*, CLEAN SLATE CLEARINGHOUSE, https://cleanslateclearinghouse.org/about (last visited Nov. 8, 2017).
[13] Governor Doug Ducey, *2017 Lighting Arizona Purple*, GOVERNOR'S OFFICE OF YOUTH, FAITH AND FAMILY, http://domesticviolence.az.gov (last visited Nov. 8, 2017).

Arizona affects one in four women and one in seven men. He further noted:

> *Every 44 minutes in Arizona, one or more children bears witness to domestic violence. Every 36 minutes in Arizona, a police officer responds to a domestic violence dispute where a child is present. Every 19 minutes in Arizona, an arrest is made as a result of a domestic violence incident. Every 12 minutes in Arizona, a domestic violence victim calls the Department of Economic Security to request emergency shelter, information, or a referral. And every five minutes in our state, a law enforcement officer responds to a domestic violence call.*[14]

Requests for domestic violence-related legal assistance far exceed current legal aid capability, particularly in the rural areas of our state. The gap between the need for and timely access to legal help is especially troubling in light of research that shows having access to legal assistance is the most critical factor in breaking the cycle of violence.[15] And, without question, the social costs of domestic violence extend far beyond the private costs borne by victims and their immediate families. When victims have help obtaining protective orders, and securing child

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[14] Governor Doug Ducey, *2017 Lighting Arizona Purple*, OFFICE OF THE GOVERNOR DOUG DUCEY (Oct. 3, 2016), https://azgovernor.gov/governor/news/2016/10/remarks-governor-ducey-lights-arizona-purple.

[15] *See, e.g.*, Denise A. Grab & Jennifer S. Rosenberg, *Supporting Survivors: The Economic Benefits of Providing Civil Legal Assistance to Survivors of Domestic Violence*, INSTITUTE FOR POLICY INTEGRITY (July 2015), http://policyintegrity.org/files/publications/SupportingSurvivors.pdf; Amy Farmer & Jill Tiefenthaler, Explaining the Recent Decline in Domestic Violence, https://www.cga.ct.gov/jud/tfs/20160729_Task%20Force%20to%20Improve%20Access%20to%20Legal%20Counsel%20in%20Civil%20Matters/Reference%20Materials/Explaining%20the%20Decline%20in%20Domestic%20Violence.pdf.

custody and child support, violence is reduced and financial hardships avoided. Public assistance dollars are conserved by reducing demand on emergency shelter, financial assistance and health care services.

Additionally, it is well documented that domestic violence and its collateral consequences directly impact the business community. As reported by *Forbes* magazine, not only does domestic violence cause personal suffering, but it also costs more than $8 billion annually in reduced productivity, increased absenteeism, and higher medical costs.[16]

By a significant margin, victims of domestic and/or family violence are the largest category of individuals receiving services from Arizona Crime Victims Fund grantees. In Arizona's most recent report to the U.S. Department of Justice, the number of "Domestic and/or Family Violence" victims is more than 7 times greater than the number of burglary victims and more than 17 times the number of victims of DUI/DWI incidents.[17] Nevertheless, only a fraction of the Domestic and/or Family Violence victims served receive legal help. Without ready access to legal assistance, most victims of domestic violence across Arizona are forced to represent themselves.

As reported in our work group meeting, Arizona has for the last 20 years been a national leader in providing legal services for domestic violence victims. The program success has been limited only by the financial resources available. The most recent Arizona Department of Economic Security fiscal year report for the collaborative Domestic

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[16] Robert Pearl, M.D., *Domestic Violence: The Secret Killer That Costs $8.3 Billion Annually*, Forbes (small caps) (Dec. 5, 2013), https://www.forbes.com/sites/robertpearl/2013/12/05/domestic-violence-the-secret-killer-that-costs-8-3-billion-annually/#343a60264681.

[17] *AZ Annual State Performance Report: Oct. 1, 2015 – Sept. 30, 2016,* VICTIM ASSISTANCE FORMULA GRANT PROGRAM (last modified Feb. 17, 2017), https://ojp.gov/ovc/grants/VOCA-Victim-Assistance-FY-2016-State-Performance-Report/az.pdf.

Violence Legal Assistance Project (DVLAP) demonstrates the impact that funding legal services can make in the lives of Arizona's domestic violence victims. In that fiscal year alone, and leveraging an approximate $1 million grant, the DVLAP provided legal assistance for nearly 9,000 victims across the state. At a minimal cost of about $122 per person, DVLAP provided the critical first step in helping these victims begin to rebuild their lives. The legal assistance provided went beyond the immediate needs of protection orders, and extended to the multiple other areas of daily life where a crime victim needs to reestablish his or her life. Over 50% of the legal assistance provided related to family law issues; however, there were over 700 cases that also had issues involving protecting individual rights; over 300 cases related to consumer protection issues; nearly 400 cases relating to obtaining or restoring public benefits; over 600 cases related to housing issues; and over 300 clients had issues dealing with obtaining or restoring access to health care. Victims of domestic violence also had issues with access to education, juvenile law or employment, and legal aid helped over 100 clients in each category resolve those legal challenges. Even with these impressive statistics, we know that thousands more Arizonans in need go without essential legal help.

Arizona's track record over the last 20 years in providing legal aid services for victims of domestic violence, even with limited funding, demonstrates the actual and potential impact that providing legal services can have for these victims and in the community at large.

**Next steps:** We propose exploring statewide legal aid victim services models that could close the gaps and ensure legal help is available to crime victims throughout Arizona. Arizona's distributed share of the U.S. Department of Justice fiscal year 2017's Crime Victims Fund is nearly $40 million, a dramatic increase over the amount the

state received just a few years ago.[18] Tapping into even a fraction of those funds, combined with the Justice Department's new final rule encouraging expanded legal assistance to crime victims,[19] present a unique opportunity to ensure statewide critically-needed legal aid services to victims of domestic violence, and also provide a collaborative platform to assist other victims of crime in Arizona, including children, the elderly, disabled individuals and veterans.

Thank you for your willingness to participate in this collaborative effort. We will soon be reaching out to each of you to set a convenient date and time for our next meeting.

[18] *2017 Crime Victims Fund Allocations*, OVC FORMULA CHART (2017), https://ojp.gov/ovc/grants/Crime-Victims-Fund-Assistance-Allocations-2017.pdf.
[19] U.S. DEP'T OF JUSTICE, NEW VOCA ASSISTANCE RULE MEANS MORE SERVICES, MORE FUNDS FOR VICTIMS (Dec. 31, 2016), https://www.justice.gov/archives/opa/blog/new-voca-assistance-rule-means-more-services-more-funds-victims.




# EXPANDING ACCESS TO JUSTICE, STRENGTHENING FEDERAL PROGRAMS

## FIRST ANNUAL REPORT OF THE WHITE HOUSE LEGAL AID INTERAGENCY ROUNDTABLE

NOVEMBER 2016

## White House Legal Aid Interagency Roundtable Members

Administrative Conference of the United States (ACUS)

Consumer Financial Protection Bureau (CFPB)

Corporation for National and Community Service (CNCS)

Equal Employment Opportunity Commission (EEOC)

Federal Communications Commission (FCC)

Federal Trade Commission (FTC)

Legal Services Corporation (LSC)

National Science Foundation (NSF)

Office of Management and Budget (OMB)

Social Security Administration (SSA)

U.S. Agency for International Development (USAID)

U.S. Department of Agriculture (USDA)

U.S. Department of Education (ED)

U.S. Department of Health and Human Services (HHS)

U.S. Department of Homeland Security (DHS)

U.S. Department of Housing and Urban Development (HUD)

U.S. Department of the Interior (DOI)

U.S. Department of Justice (DOJ)

U.S. Department of Labor (DOL)

U.S. Department of State (State)

U.S. Department of the Treasury (Treasury)

U.S. Department of Veterans Affairs (VA)

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# EXECUTIVE SUMMARY

*"This Nation was founded in part on the promise of justice for all. Equal access to justice helps individuals and families receive health services, housing, education, and employment; enhances family stability and public safety; and secures the public's faith in the American justice system. Equal access to justice also advances the missions of an array of Federal programs, particularly those designed to lift Americans out of poverty or to keep them securely in the middle class. But gaps in the availability of legal aid—including legal representation, advice, community education, and self-help and technology tools—for America's poor and middle class threaten to undermine the promise of justice for all and constitute a crisis worthy of action by the Federal Government.*

*~President Barack Obama*
*Presidential Memorandum Establishing WH-LAIR*

Civil legal aid—free legal assistance to low-income and underserved individuals—increases access to justice and alleviates poverty and inequality. With legal aid, a woman may obtain a protection order and escape domestic violence, a homeless veteran may secure stable housing, and a young adult may get their old criminal record expunged and get a job. Though not always appreciated or utilized, legal aid is a critical element of the Federal government's efforts to reduce poverty, protect the most vulnerable among us, and strengthen our communities.

Recognizing the power of legal aid, the White House Legal Aid Interagency Roundtable (WH-LAIR) agencies have been working together since 2012 to integrate legal aid into myriad Federal programs, policies, and initiatives. Co-chaired by the Attorney General and the Director of the White House Domestic Policy Council and staffed by DOJ's Office for Access to Justice, WH-LAIR has engaged Federal grantees, legal aid providers, and Federal agency staff to raise awareness about how legal aid advances Federal priorities. The impressive results include clarifying the scope of dozens of Federal grant programs to include the provision of legal aid that further program goals in the areas of health care, domestic violence, citizenship, homelessness, reentry, and more; developing new training and technical assistance to grantees and legal aid providers; and generating new research about the impact of civil legal aid. WH-LAIR also launched the WH-LAIR website and Toolkit, online resources that provide information about civil legal aid as well as Federal funding opportunities and other resources.

In September 2015, President Obama signed a Presidential Memorandum that formally established the interagency collaboration as a White House initiative. The Memorandum expanded WH-LAIR's mandates to include advancing evidence-based research and data collection of civil legal aid and indigent defense, promulgating best practices, and assisting the United States with implementing Goal 16 of the United Nation's 2030 Agenda for Sustainable Development—which calls on countries to ensure "equal access to justice for all."

This Report is WH-LAIR's first annual report to the President. Part I provides an overview of civil legal aid and WH-LAIR; Part II details WH-LAIR agencies' efforts to improve their programs by incorporating legal aid; and Part III outlines WH-LAIR's plans for the future.

The Report demonstrates that the 22 members of WH-LAIR have taken significant steps to integrate civil legal aid into their programs designed to serve low-income and vulnerable individuals, where doing so can improve their effectiveness and increase access to justice. The strategies that agencies deploy to advance WH-LAIR's mission largely fall into four categories: 1) leveraging resources to strengthen Federal programs by incorporating legal aid; 2) developing policy recommendations that improve access to justice; 3) facilitating strategic partnerships to achieve Federal enforcement and outreach objectives; and 4) advancing evidence-based research, data collection, and analysis. WH-LAIR agencies' efforts in these areas include:

**Leveraging resources to strengthen Federal programs by incorporating legal aid**

- HHS clarified that legal aid is included in the range of "enabling services" that HHS-funded health centers can provide to meet communities' primary care needs.
- HUD funds fair housing enforcement organizations, including legal aid programs, to assist people who believe they have been victims of housing discrimination.
- Treasury's Internal Revenue Service (IRS) supports legal clinics that provide representation for little to no cost for low-income individuals seeking to resolve disputes with IRS to ensure fairness and integrity in the tax system.
- SSA, ED, and HHS provide legal aid to people with disabilities through the Protection and Advocacy System (P&A) programs and also fund technical assistance to P&A programs providing legal aid.
- CNCS and DOJ fund legal aid lawyers and staff through Elder Justice AmeriCorps to help elder abuse victims and justice AmeriCorps to assist unrepresented immigrant children who have crossed the U.S. border without a parent or legal guardian.
- DOI helps support tribal courts and provides free trainings to tribal judges, prosecutors, and defenders—which include legal aid providers—to strengthen tribal justice systems.

**Developing policy recommendations that improve access to justice**

- ACUS and DOJ co-chair WH-LAIR's Working Group on Self-Represented Parties in Administrative Hearings, which explores best practices for administrative hearing procedures involving self-represented individuals to increase fairness, accuracy, and efficiency.
- DOL issued the 2016 Workforce Innovation and Opportunity Act final rules, which list legal aid among the services American Job Centers can provide to help youth, adults, and dislocated workers secure employment.
- HHS's Office of Child Support Enforcement outlines opportunities to support self-help strategies for certain legal needs in its proposed rule to modernize the nation's child support program.

- ➢ VA issued a directive to advise VA medical facilities on how to refer homeless veterans to legal aid providers for assistance with legal matters, such as child support, outstanding warrants and fines, and to provide office space to legal service providers when possible.
- ➢ State, USAID, and DOJ are promoting the creation of the first global network of criminal legal aid providers.

**Facilitating strategic partnerships to achieve enforcement and outreach objectives**

- ➢ FTC developed the Legal Services Collaboration, a nationwide partnership with legal aid, to inform FTC's law enforcement priorities and allow the agency to alert local communities about scams and respond to local concerns.
- ➢ CFPB collaborates with legal aid to broaden the reach of the Your Money, Your Goals Toolkit, which helps individuals and families work through short- and long-term financial issues.
- ➢ DOJ, DOL, and FTC credit their collaborations with legal aid for enforcement actions ending discriminatory school discipline practices, ensuring language access for injured low-income workers and court users, and helping to shut down illegal practices by car dealers and bogus "work-at-home" scammers.
- ➢ EEOC and DOL are working to strengthen their respective collaborative partnerships with civil legal aid providers who can inform the agencies of relevant issues to enhance their enforcement and outreach activities.

**Advancing evidence-based research, data collection, and analysis**

- ➢ DOJ chairs WH-LAIR's Working Group on Access to Justice Indicators and Data Collection, which works to identify national indicators to track the United States' progress in achieving access to justice consistent with Goal 16 of the 2030 Agenda for Sustainable Development.
- ➢ NSF sponsored a workshop to advance practitioner-scholar partnerships on access to justice-related research projects, and DOJ, in collaboration with NSF, hosted a Civil Legal Aid Research Workshop to help create a research agenda on Federal priorities at the intersection of civil legal aid, public safety, and criminal justice.
- ➢ VA surveys veterans, VA staff, and community participants each year to identify the needs of homeless veterans including their legal needs.
- ➢ LSC is undertaking a new national legal needs survey to update the Justice Gap studies of 2005 and 2009.

These are just some of the many WH-LAIR agency actions that expand access to civil legal aid, improve program effectiveness, and enhance the quality of life for families and communities. Although much has been accomplished, there is more work to be done to maximize the performance of Federal programs and ensure meaningful access to justice for all in America.

# White House Legal Aid Interagency Roundtable Agencies & Civil Legal Aid Programs in Action

## Legal aid helps to create a stable and loving family

"Timmy," a four-year-old boy, had never known a parent other than his 53-year-old grandmother, "Sandra," who cared for him on her own since he was one. On Timmy's behalf, Sandra was receiving Temporary Assistance for Needy Families (TANF) program funds from the Mason County, West Virginia, Department of Health and Human Resources Office. In 2013, she contacted Legal Aid of West Virginia (LAWV) to request help formally adopting her grandson. Through LAWV's WV WORKS Legal Support Project, which receives funds from the state's TANF program, a staff attorney took on the adoption case and helped complete the adoption in 2014. Sandra and Timmy were overjoyed that Timmy's permanent home would be with his loving "ma-ma."



*(Photo: LSC)*

## Trafficking victim gains a financial fresh start with legal aid

At risk of homelessness, 18-year-old "Becky" moved in with her boyfriend "Jimmy." Though he initially treated her nicely, Jimmy soon forced her to have sex with other men for money, and work at legal brothels and strip clubs in Nevada and Houston. Eventually Becky escaped, and Jimmy was arrested for his part in a domestic sex trafficking ring. Although finally freed, Becky soon began receiving letters from the IRS for unpaid Federal taxes on nearly $300,000 in the earnings from the legal brothels and strip clubs. Becky turned to Lone Star Legal Aid's Low Income Taxpayer Clinic, a program funded in part with a grant from the IRS, and its lawyer helped Becky document her experience as a trafficking victim who never received any funds. This legal assistance helped eliminate Becky's tax debt and enabled a financial fresh start to help her recover from years of trafficking.

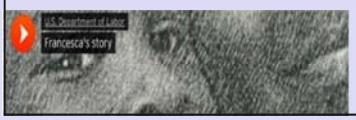


*(Photo: Francesca Yerks)*

## Lawyer's help clears barriers for working mom

Francesca, a 21-year-old single mother of two children, received a job offer to work at a major bank's call center. But when a background check revealed a three-year-old municipal ticket for retail theft, she lost the offer. When she was 18, she got the ticket for taking clothing valued at $20 from a former employer. She knew it was a mistake and vowed not to do it again. She paid the fine thinking that the municipal ticket would not create a criminal record. The recipient of DOL's Face Forward grant referred Francesca to their legal aid partner, Legal Action of Wisconsin, for help. Within a month, a legal aid attorney got Francesca's municipal ticket case reopened and dismissed. After the attorney submitted proof of the dismissal to the state criminal investigation bureau, which cleared Francesca's criminal background report, the bank hired Francesca. After less than eight months on the job, Francesca earned a raise.

Hear Francesca tell her story:
https://blog.dol.gov/2016/11/03/the-ticket-to-new-life/



Arizona Commission on Access to Justice

| Meeting Date: | Type of Action Requested: | Subject: |
|---|---|---|
| February 7, 2018 | ☐ Formal action or request<br>☒ Information only<br>☐ Other | Update on Online Dispute Resolution Software |

From: Marcus Reinkensmeyer, Court Services Division Director

Presenters: (Same)

Discussion: Mr. Reinkensmeyer will update the Commission on the progress of online dispute resolution software.

Recommended motion: None.

Arizona Commission on Access to Justice

| Meeting Date: | Type of Action Requested: | Subject: |
|---|---|---|
| February 7, 2018 | ☐ Formal action or request<br>☒ Information only<br>☐ Other | Report from the Self-Represented Litigants in Limited Jurisdiction Courts Workgroup |

From: Judge Anna Huberman, Chair

Presenters: (Same)

Discussion: The workgroup met on January 25, 2018. The presenter will discuss strategic planning focus:

- The eviction action webpage and Legal Info Sheets webpage have been translated into Spanish. The workgroup will report on webpage hits to the English and Spanish webpages.
- The workgroup is focusing on developing eviction-related videos that will be available on azcourts.gov and AZCourtHelp.org.

Recommended motion: None.

Arizona Commission on Access to Justice

| Meeting Date: | Type of Action Requested: | Subject: |
|---|---|---|
| February 7, 2018 | ☐ Formal action or request<br>☒ Information only<br>☐ Other | New Rule Change Petition |

From: Judge Anna Huberman

Presenters: (Same)

Discussion: The presenter will report on the following rule petition:

- R-18-0020 – Subsidized Housing Disclosure Requirements in Eviction Actions

Recommended motion: None.

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**IN THE SUPREME COURT**
**STATE OF ARIZONA**

| In the Matter of: | Supreme Court No. R-18- |
|---|---|
| **PETITION TO AMEND THE RULES OF PROCEDURE FOR EVICTION ACTIONS** | **PETITION** |

Pursuant to Rule 28, Ariz. R. Sup. Ct., the State Bar of Arizona resp
petitions this Court to amend the Rules of Procedure for Eviction Actions, R
and (b), to add pleading requirements to the complaint if the rental unit is su
housing. The proposed amendments include a disclosure in the pleading r
rent apportionment between the tenant and the public housing entity. This
also seeks to amend Rule 13(a) to require that the court ensure proper discl
this respect.

## I. Background and Purpose of the Proposed Rule Amendmer

### A. Current Rules

In 2008, the Arizona Supreme Court approved the Rules of Proce

Eviction Actions. The rules have limited information on subsidized housi
only current specific reference is in Rule 4(f):

> **f. Compliance with Laws and Regulations Governing Subsidized Rent.** The parties shall comply with all federal and state laws and regulations governing subsidized rent. (emphasis in original).

The pleading requirements do not refer to subsidized housing. Rule
forth the pleading requirements for an eviction complaint, yet the rule is sil
landlord's duty to disclose whether or not the tenant receives a housing sub

Rule 5(c) applies to cases in which complainant seeks monetar
including unpaid rent. Although the rule requires the landlord to state ho
calculated, this rule is also silent on disclosure of information regarding su
rent.

Rule 13(a) sets forth the criteria reviewed by the court prior to er
judgment, and is also silent on consideration of subsidized housing.

### B. The Importance of Subsidized Housing Units in Ariz

The purpose of subsidized housing is to provide safe, habitable, and af
housing for low-income individuals and families. While there are several
subsidized housing programs, the federal government's largest subsidized
program is the "Housing Choice Voucher" program – or what is commonly

to as "Section 8" housing. U.S. DEP'T OF HOUSING & URBAN DEVEL(
HOUSING CHOICE VOUCHERS FACT SHEET
www.hud.gov/topics/housing_choice_voucher_program_section_8.

Under the Section 8 program, a public housing agency (PHA) issues
or individual a housing voucher to assist in the payment of rent for a h
residence. *Id.* Additionally, the PHA sets payment standards based on the
moderately-priced rental unit in the locality. *Id.* For tenants receiving such
assistance, the amount of rent and utilities paid by the tenant is generally li
30% of the tenant's adjusted monthly income. *Id.* If the unit rent is greater
payment standard, then the tenant pays the additional amount. *Id.* T
subsidizes the difference. *Id.* As an example, a disabled tenant whose in
$800 per month will typically be responsible to pay approximately $240 pe
for rent (30% of $800). In turn, the PHA will be responsible for the
standard minus $240, or the gross rent minus $240, whichever is less. *See i*

In Arizona, over 45,000 households are federally subsidized tena
counting public housing units operated by state and local governments. CE
BUDGET & POLICY PRIORITIES, ARIZONA FACT SHEET: FEDERAL
ASSISTANCE (Mar. 30, 2017), https://www.cbpp.org/sites/default/files/atom
13-11hous-AZ.pdf.

### C. Tenant is not Responsible for the Subsidized Portion

Under the housing voucher program, tenant is not obliged to the pay th entity's portion of the rent and should not be sued for the subsidized pc unpaid rent. *See, e.g.*, HOUSING CHOICE VOUCHERS FACT SHEET, *supra*. No the landlord obtain possession of the unit if tenant has met his or her oblig pay tenant's portion of the rent. The tenant should not be adversely affecte housing program's failure to pay its apportionment of the subsidized rent.

## II. Tenants' Property Interests and Due Process Considerati

Tenants have a property interest in their residences. *Greene v. Lind* U. S. 444, 451-52 (1982); *see also Foundation Development Corpor Loehmann's*, 163 Ariz. 438, 442, 788 P.2d 1189, 1193 (Ariz. 1990) (rec common law right of tenant's property interest in rental). Eviction proceed deprive tenants of that property must comply with the due process require the Fourteenth Amendment to the United States Constitution. *Greene*, 45 455. Moreover, tenants also have a property interest in their subsidized benefits because they are in the class of persons the program is intended to *Ressler v. Pierce*, 692 F.2d 1212, 1215, (9th Cir. 1982).

It is well recognized that for low-income persons, an eviction act threaten their only means of shelter. *See, e.g.*, Chester Hartman & David R

*Evictions: The Hidden Housing Problem,* 14 HOUSING POLICY DEBATE 461 https://www.innovations.harvard.edu/sites/default/files/10950.pdf. The ina find other housing on short notice can lead to the disruption of children's ed interruption of employment, dislocation from health care providers, loss of belongings, and homelessness. In addition, the eviction process may monetary judgments. These monetary judgments make it difficult for te secure new rental housing. Thus, eviction cases are highly consequential t and especially low-income tenants, who often lack back-up resources. The an eviction may be homelessness.

If a landlord requests and obtains a judgment for a public entity's p the rent when the tenant is not responsible for that portion of the rent, the adversely affected. The tenant may lose not only their housing, but their S certification as well, thereby affecting their ability to secure housing in the

## CONCLUSION

Because of the severe consequences that a tenant receiving a housing could face if held responsible for a default on payment of the subsidized p tenant's rent, the rule changes proposed in this Petition are necessary to st the pleading requirements for landlords bringing an eviction action against whose housing is subsidized. This effort is made to ensure protection of thes

from the loss of home and their government subsidy through no fault of th

The Petition also seeks to create proper court oversight in eviction procee ensure that landlords are only seeking possession of rental units and n judgments from the portion of the rent that tenant is obliged to pay. There State Bar respectfully requests the Court approve this Petition.

RESPECTFULLY SUBMITTED this 10th day of January

Lisa M. Panahi
General Counsel

Electronic copy filed with the
Clerk of the Arizona Supreme Court
this 10th day of January, 2018.

by:

## Appendix

***(Please note: deletions are reflected by ~~strikethrough~~ and additions are reflected by underline.)***

**Rules of Procedure for Eviction Actions**

**Rule 5. Summons and Complaint: Issuance, Content and Service of Process**

**a.** [No change in text.]

**b. Complaint.** The complaint shall:

(1)-(7) [No change in text.]

(8) State whether or not the rental is a subsidized housing unit and, if it is, state the total rent per month and specify the amount of rent per month that is the tenant's responsibility.

(9) Current Rule 5(b)(8) would be renumbered 5(b)(9).

**c. Complaint for Monetary Damages.** If the complaint seeks a money judgment for rent, late charges, or other fees, charges or damages permitted by law, the complaint shall also state:

(1)-(7) [No change in text.]

(8) If the rental is a subsidized housing unit, the landlord must state the total amount of the rent per month, the tenant's portion of the monthly rent and the total amount of the tenant's portion of the rent that the tenant owes.

**Rule 13. Entry of Judgment and Relief Granted**

**a. Items to Review.** Except for stipulated judgments entered pursuant to Rule 13(b)(4), in each eviction action the court shall:

(1)-(4) [No change in text.]

(5) Determine whether the rental is subsidized. If the court determines the rental is subsidized, determine whether there is unpaid rent that the tenant is obligated to pay as the tenant's portion of the rent.

Arizona Commission on Access to Justice

| Meeting Date: | Type of Action Requested: | Subject: |
|---|---|---|
| February 7, 2018 | ☐ Formal action or request<br>☒ Information only<br>☐ Other | Update on Rule Petitions |

From: Julie Graber, AOC staff

Presenters: (Same)

Discussion: The presenter will update the commission on the following rule petitions:

- R-16-0022 – Change of Judge in Eviction Actions

Recommended motion: None.

Arizona Commission on Access to Justice

| Meeting Date: | Type of Action Requested: | Subject: |
|---|---|---|
| February 7, 2018 | ☐ Formal action or request<br>☒ Information only<br>☐ Other | Update on the Public Information and Messaging Workgroup |

From: Rick DeBruhl, State Bar of Arizona, Heather Murphy, AOC Director of Communications, and Judge Lawrence Winthrop

Presenters: (Same)

Discussion: The presenters will discuss the workgroup's strategic planning focus.

- The workgroup is working on building a repository of podcasts facilitated by a Supreme Court Justice. The topics of the podcast will be based on the Event Calendar.

Recommended motion: None.

Arizona Commission on Access to Justice

| Meeting Date: | Type of Action Requested: | Subject: |
|---|---|---|
| February 7, 2018 | ☐ Formal action or request<br>☒ Information only<br>☐ Other | Update on the AZCourtHelp.org website |

From: Dr. Kevin Ruegg, Arizona Bar Foundation, and Theresa Barrett, manager of AOC's Court Programs Unit

Presenters: (Same)

Discussion: Dr. Ruegg will inform the members about the Google Analytics and demonstrate the website's new features. Ms. Barrett will update regarding marketing efforts.

Recommended motion: Informational only.




**Google Analytic Results**
Jan. 11, 2017 to December 31, 2017

| *Sessions* | *Users* | *Page views* | *Hits* |
|---|---|---|---|
| *53,285* | *42,419* | *183,370* | *2,750,550* |

**Devices Used**
*Desktop – 54%*
*Mobile - 40%*
*Tablet – 6%*

**Acquisition**
*Organic Search – 39%*
*Referral – 36%*
*Direct – 23%*
*Social Media – 1%*
*Google Ads – 1%*

**Top Website Referrals**
**1 –** *AZLawHelp.org*
**2 –** *AZCourts.gov*
**3 –** Courts.yavapai.us
**4 –** *Superiorcourt.maricopa*
**5 –** *Co.greenlee.az.us*

**Most Popular Times/Days**
**11:00am –** 3,527
**1:00pm –** 3,525
**10:00am –** 3,516
**Tuesday –** 8,877
**Wednesday –** 8,752

| **Top 10 Cities** | |
|---|---|
| **City** | **Sessions** |
| Phoenix | 14,921 |
| Tucson | 3,194 |
| Mesa | 1,704 |
| Los Angeles | 1,683 |
| Tempe | 1,076 |
| Scottsdale | 1,045 |
| Kingman | 956 |
| Chandler | 804 |
| Glendale | 761 |
| Gilbert | 714 |

**Top Four Pages Viewed**

**8,832 views**


**1) Form Finder**

**4,627 views**


**2) Court Records**

**4,037 views**


**3) Browse By Topic**

**3,863 views**


**4) FAQ: PreTrial Info**

**To contribute content or provide feedback - Cathleen.Cole@azflse.org**

Arizona Commission on Access to Justice

| Meeting Date: | Type of Action Requested: | Subject: |
|---|---|---|
| February 7, 2018 | ☐ Formal action or request<br>☒ Information only<br>☐ Other | Report regarding Access to Justice in Tucson and Federal Court |

From: Stacy Butler, U.S. District Court

Presenters: (Same)

Discussion: Ms. Butler will report on the following topics:

- Step Up to Justice, which is a new non-profit legal aid provider in Tucson
- Teaching an access to justice course at the University of Arizona Law School
- Improving access to justice in the federal district court in Tucson

Recommended motion: None.

Arizona Commission on Access to Justice

| Meeting Date: | Type of Action Requested: | Subject: |
|---|---|---|
| February 7, 2018 | ☐ Formal action or request<br>☒ Information only<br>☐ Other | Report from the Judicial and Attorney Engagement Workgroup |

From: Judge Joseph Kreamer, Maricopa County Superior Court, and Kevin Groman, In-House Counsel *Pro Bono* Commission

Presenters: (Same)

Discussion: The workgroup will meet on March 9, 2018.

The presenters will discuss the workgroup's strategic planning focus, including engaging public lawyers, engaging law firms, and judicial engagement. In addition, the presenters will provide an update on the In-House Counsel *Pro Bono* Commission meeting.

Recommended motion: None.

**Arizona Commission on Access to Justice**
**MINUTES**
**Wednesday, February 7, 2018**
**10:00 a.m. to 2:00 p.m.**
**State Courts Building, 1501 W. Washington Street, Conf. Rm. 119A/B, Phoenix, AZ 85007**

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**Present:** Judge Lawrence Winthrop (chair), Judge Janet Barton, Judge Thomas Berning, Pamela Bridge, Judge Maria Elena Cruz, Kevin Groman, Judge Anna Huberman, Judge Joseph C. Kreamer, Maria Morlacci, John Phelps, Helen Purcell, Janet K. Regner, Dr. Kevin Ruegg, Kathy Schaben *(proxy for Judge David Haws)*, Valerie Wyant

**Telephonic:** Kip Anderson, Judge Sean Brearcliffe, Millie Cisneros, Anthony Young

**Absent/Excused:** Mike Baumstark

**Presenters/Guests:** Chief Justice Scott Bales, Stacy Butler, Dave Byers, Cathy Clarich, Cathleen Cole, Dana Corbo, Christina Corieri, Chris Groninger, Denise Holliday, Robb Itkin, Don Jacobson, Karen Lash, Heather Murphy, Marcus Reinkensmeyer, Mona Stone

**Administrative Office of the Courts (AOC) Staff:** Theresa Barrett, Julie Graber, Kathy Sekardi

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## I. REGULAR BUSINESS

### A. Welcome and Opening Remarks

With a quorum present, the February 7, 2018, meeting of the Arizona Commission on Access to Justice (ACAJ) was called to order by Judge Lawrence F. Winthrop, chair, at 10:06 a.m. Judge Winthrop welcomed members and introduced new members, Kevin Groman, Judge David Haws, and Valerie Wyant. Chief Justice Scott Bales thanked the commission for its efforts.

### B. Approval of Minutes

The draft minutes from the November 8, 2017, ACAJ meeting were presented for approval.

**Motion:** Judge Thomas Berning moved to approve the November 8, 2017, minutes, as presented. **Seconded:** Janet Regner. **Vote**: Unanimous.

## II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

### A. Chairperson's Report

Judge Winthrop reported on several access to justice topics.

- The 2018 Maricopa Veterans StandDown event took place on January 25 and 26 to connect homeless veterans or those at risk for falling into homelessness with resources and services, including civil legal aid. There were 1,658

veterans served and 46 attorneys handled 266 legal consultations in the areas of family law, bankruptcy and debt, landlord/tenant, and estate planning.

- Several presentations were made by ACAJ members to law firms and other organizations regarding access to justice, the commission's work, and the tax credit, and many future presentations are scheduled.
- The January 2018 Arizona Attorney's cover story was on *pro bono* efforts of Arizona's attorneys and the "Last Word" column was devoted to the commission's work and the tax credit.
- An access to justice program is being planned for the State Bar Convention to be held in June.
- Two proposals for presentations were submitted for the 2018 National Access to Justice Chairs meeting on May 12, 2018: 1) how to build a virtual legal information resource center, and 2) adapting the Legal Aid Interagency Roundtable (LAIR) model to a state government setting.

  Judge Winthrop reminded the commission that Arizona is one of several states participating in the Justice in Government Project, which encourages the use of existing funding at the state level to provide civil legal aid services to individuals to remove obstacles to employment, escape domestic violence, and stabilize housing for needy families. At the same time, it helps responsible state agencies fulfill their mission of service.

**B. Report on the Justice in Government Project**

Guest presenter Karen Lash, Director of the Justice in Government Project at American University, discussed how the goals of the commission are finding interest convergence with the policy priorities of the executive branch, including the Arizona Governor's Office. Ms. Lash reviewed the roadmap for the Justice in Government Project and identified priority populations, such as victims of domestic violence, jobseekers who have criminal records, homeless veterans, and people addicted to opioids. She described the focus of LAIR, as well as the Justice in Government Project, which is based on the idea that all levels of government programs are more effective, efficient, and fair when legal services are included among supportive services. The goals are to determine if the LAIR concept can work at the state level; identify when there is interest convergence between the judicial branch and the executive branch; and find civil legal aid funds from existing federal funding sources. Ms. Lash also noted two guiding principles at the federal government regarding legal aid: there is low public awareness for low-income individuals, and social services providers, regarding legal aid as a solution; and there are economic benefits to investing in legal aid, for example, by reducing illegal evictions and domestic violence.

She provided a short primer regarding federal block grants and discussed which ones could include legal aid for priority populations.

1. Domestic violence. Research has shown that access to legal services can be a critical tool in helping domestic violence victims escape from abusive relationships. Governor Ducey has noted that society has a collective

responsibility to help. The Arizona Domestic Violence Legal Assistance Project is a model state program funded by Temporary Assistance for Needy Families (TANF), a state-administered federal block grant. TANF funds can be used for legal representation and to help resolve personal and family legal problems if costs are consistent with the program's purposes. Another grant is the Victims of Crime Act (VOCA). New rules have expanded the type of legal assistance that VOCA can accept, including human trafficking and identity theft. Some states are using their VOCA allocation increases to fund comprehensive statewide victim legal aid programs. The Services, Training, Officers, and Prosecutors Violence Formula (STOP) Grants also allow legal services and legal advocacy.

2. Jobseekers with criminal records. Evidence suggests that legal interventions such as expungement halt the decline in earnings, even boost earnings, and are key components of an effective employment reentry strategy. In the 2018 State of the State Address, Governor Ducey supported policy for individuals who served their time and paid their debt. Legal aid can help jobseekers applying to set-aside their criminal records, reinstating revoked or suspended driver's licenses, and avoiding garnishment by negotiating child support or outstanding debts. Examples of block grants that support jobseekers' reentry legal needs include the Workforce Innovation and Opportunity Act (WIOA), TANF, Community Development Block Grant (CDBG), Social Services Block Grant (SSBG), and Title II Formula Grants Program.

3. Homeless veterans. Research has shown that five out of the top ten unmet needs for homeless veterans involve legal assistance like eviction foreclosure prevention, child support issues, and outstanding warrants and fines. Arizona's policy directive notes that eliminating homelessness among veterans is within reach. Available block grants to help homeless veterans include CDBG, SSBG, and Community Services Block Grant.

4. People struggling with the opioid epidemic. There is some research that suggests that civil legal aid can positively impact an individual and drive down the costs of healthcare. Governor Ducey has provided policy directive and leadership on the topic. The Substance Abuse Prevention and Treatment Block Grant and the State Targeted Response to Opioid Crisis Grant are helping families that are struggling with opioid addiction to address legal needs.

**Member Comments:**

- It is essential that the executive branch be an active partner in this project. Governor Ducey and his office have shown a willingness to listen, collaborate, and come up with great ideas.
- Christina Corieri from the Arizona Governor's Office reported on ongoing programs that focus on reentry issues for individuals with criminal records and victims of crime. These initiatives highlight how interests converge

between the judicial and executive branches. She offered the commission an opportunity to talk to key executive branch representatives who are running these programs.

**C. Update on Online Dispute Resolution Software**

Marcus Reinkensmeyer, AOC Court Services Division Director, updated members on the progress of implementing online dispute resolution (ODR) software, and provided an overview of the ODR model, proof of concept projects with limited duration to scale upward, and the statewide requests for proposals.

Mr. Reinkensmeyer defined ODR as a digital workspace that is neutral, secure, and in the control of the court where parties can convene to work out a resolution to their dispute or case. ODR would be part of the array of online litigant services. He described the ODR functions and the ODR planning considerations for courts, including the types of proceedings, privacy and security, audience, platform, citizen access, getting to resolution, and funding. The funding model is the most difficult consideration, which consists of either imposing a user fee or have the court absorb the costs because of the efficiencies that are realized.

Mr. Reinkensmeyer reported that Matterhorn was selected as the platform through a competitive bid process. There will be three pilot projects that will last 12 to 18 months and include an evaluation component. The AOC will be paying the user fees during this period. The following courts have agreed to be part of pilot projects in the following case types:

- Yuma County Superior Court in family court post-dissolution cases
- Scottsdale Municipal Court in traffic and misdemeanor cases
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He discussed the statewide request for proposals for ODR. The intent would be to make ODR available to all courts because there would be economies of scale and volume discounts. There is also a possible multi-vendor model so the best vendor in a particular case type could be selected. Mr. Reinkensmeyer reviewed the benefits of ODR, such as access, fairness, procedural due process, efficiency, litigant satisfaction, and enforcement. He also reviewed some findings from Michigan:

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- 40 percent of transactions occur after business hours
- 37 percent of individuals could not have otherwise come to court and resolve the matter

Judge Winthrop remarked that ODR enhances meaningful access to justice for individuals and results in collateral benefits for the courts.

**Member comments:**

- Training should be provided to legal aid services before the pilot projects launch so they can refer individuals.
- Judge Barton reported that family law post-decree will use a different process than debt collection because of the need for a mediator.
- Mr. Reinkensmeyer reported that the AOC will pay the front-end costs as well as user and transaction fees during the pilot projects. The intent is for courts to pick up some of the costs because of the cost savings resulting from efficiencies.

**D. Report from the Self-Represented Litigants in Limited Jurisdiction Courts (SRL-LJC) Workgroup**

Judge Anna Huberman reported that the workgroup is working on developing *Legal Info Videos* for eviction actions to complement the *Legal Info Sheets* that have already been created and posted. The *Legal Info Videos* will be more effective than the *Legal Info Sheets*, but they are more time consuming to develop. The workgroup has drafted eight scripts, which have been storyboarded by staff. Comments are due in a couple of weeks. The storyboards will be translated into Spanish once they are approved by the workgroup. The goal is to launch the videos as a series in both English and Spanish in April. An example video entitled "Your Landlord is Taking you to Court" was presented to the members.

**E. New Rule Change Petition**

Judge Huberman reported on SRL-LJC's discussion of a new rule petition (R-18-0020) filed by the State Bar, which would add pleading requirements to the complaint in eviction actions if the rental unit is subsidized housing as well as a disclosure requirement regarding rent apportionment between the tenant and the public housing entity. The workgroup generally supported the rule petition but suggested the commission file a comment with recommended language changes.

**Motion:** To support R-18-0020 generally and authorize Judge Winthrop, Judge Huberman, and Pam Bridge to draft a comment in support of the rule petition with recommended language changes, as discussed. **Seconded:** Judge Berning. **Vote:** Unanimous with one abstention.

**F. Update on Rule Petitions**

Julie Graber reported that R-16-0022 regarding change of judge in eviction actions was adopted on a permanent basis, effective January 1, 2018.

**G. Update on Public Information and Messaging Workgroup**

Heather Murphy reported on the workgroup's current projects regarding access to justice.

- AOC staff is in the process of redesigning the English and Spanish Self-Service Centers on azcourts.gov in a similar way as AZCourtHelp.org.

- The workgroup is developing a unique podcast series in which a Supreme Court Justice will be a guest host interviewing a subject-matter expert in a conversational tone on a topic. Podcasts will be five to twelve minutes in length and available on AZCourtHelp.org and azcourts.gov.

**H. Update on the AZCourtHelp.org website**

Dr. Kevin Ruegg reviewed the Google Analytics and reported that there have been 42,419 unique users since the launch. She reviewed the goals for 2018:

- Make forms fillable
- Provide guided interviews for dissolutions, legal decision-making, and parenting time
- Provide a partner portal to local courts that do not have their own website
- Include jury service information

Theresa Barrett discussed the traditional and digital marketing efforts, such as the redesign of the postcard and the creation of business cards.

**I. Report regarding Access to Justice in Tucson and in Federal Court**

Stacy Butler discussed three access to justice topics in Tucson and in federal court.

1. Step Up to Justice is a civil *pro bono* law center in Tucson, which attempts to bridge the justice gap for low-income clients. Ms. Butler reported that if individuals were represented by counsel, their outcome was three-times more favorable for guardianships, four-times more favorable for women in domestic violence cases, and nineteen-times more favorable for tenants in housing cases. She discussed JusticeServer, which is innovative software connecting low-income individuals to volunteer attorneys by providing effective client triage for direct representation, clinics, and court programs. It allows attorneys to volunteer from their desk and staff to track work in real time in a more efficient manner. In the first year of operation, Step Up to Justice served 1,000 clients and delivered the equivalent of $1 million in free civil legal services, which represents a 20 percent increase in access to justice in Pima County. Ms. Butler described sustainability and projected growth for Step Up to Justice, whose model delivers significant cost reduction per case from $215 to $147.

**Member comments:**

- Are you eligible for IOLTA funding as a provider of legal services? It has been discussed but Step Up to Justice has not applied yet.
- What entices an attorney to do *pro bono* work through Step Up to Justice instead of another organization? Step Up to Justice offers a menu of options, whether it is direct representation or a clinic setting.

2. Ms. Butler discussed resources for self-represented litigants in federal court since 2014. Volunteer attorney clinics began in Tucson in 2015 in partnership with Step Up to Justice. Based on the success of these clinics, clinics began in

Phoenix in 2017. Additional resources were developed, including "The Handbook for Self-Represented Litigants," which takes the self-represented litigant from the start to the finish of the process, and E Pro Se, which is a web-based complaint drafting tool. The website was improved by providing a section entitled "For those Proceeding Without an Attorney." Resources for chambers staff were added on the intranet on how to deal with incarcerated and non-incarcerated self-represented litigants.

**Member comments:**

- Is there consideration to create mediation by court staff for self-represented litigant cases? There is no formal system for non-incarcerated self-represented litigants to get into early mediation.

3. Ms. Butler described the access to justice course that she taught at the University of Arizona. The course objectives included being a problem-finder from the point of view of a self-represented litigant, diversifying perspectives beyond the legal community, and building smart solutions while understanding the end-user. She described some of the lessons learned from the projects: online resources are not a fix-all; resources may be hard to find or use; resources may not match the need; you cannot solve a problem you do not understand; importance of obtaining a diversity of perspectives; and solutions do not necessarily take a lot of money and resources.

**Member comments:**

- The commission was very impressed by this course and recommended that it be taught at every law school. The approach would be a great complement to existing clinical programs.

**J. Report from the Judicial and Attorney Engagement Workgroup**

Kevin Groman discussed how the In-House Counsel *Pro Bono* Commission has been working on removing barriers for in-house counsel to do *pro bono* and identified the issue of time as the most difficult challenge. Mr. Groman invited in-house counsel to attend the meeting and review the types of initiatives that the commission has been pursuing.

- Appreciation lunch for Association of Corporate Counsel – AZ Chapter, which won the national award for *pro bono* work.
- Commercial court mediation program to help small businesses. All nine cases were settled.
- Library effort working group has held successful programs for small business and people with modest means.

Judge Kreamer reported that the workgroup has been working on drafting a letter to send to law firms asking about their *pro bono* policies and activities. Chief Justice Bales recently approved the letter, which will be sent out shortly. The workgroup will be holding a strategic discussion exploring options based on the responses received.

## III. OTHER BUSINESS

### A. Good of the Order/Call to the Public

John Phelps updated members on the Public Service Center, which will launch in March as a way for consumers to connect with attorneys.

### B. Next Meeting Date

Wednesday, May 23, 2018
10:00 a.m. to 2:00 p.m.
State Courts Building, Room 119
1501 W. Washington Street
Phoenix, AZ 85007

Adjourned at 1:59 p.m.




# Arizona Commission on Access to Justice

## Meeting Agenda

May 23, 2018 - 10:00 a.m. to 2:00 p.m.
State Courts Building ♦ 1501 West Washington ♦ Conference Room 345 ♦ Phoenix, Arizona
ACAJ WEBPAGE

| TIME | AGENDA ITEM | PRESENTER |
|---|---|---|
| 10:00 a.m.<br>Page 3 | **Welcome and Opening Remarks**<br>**Approval of minutes from February 7, 2018**<br>☐ ***Formal Action/Request*** | *Judge Lawrence F. Winthrop, Chair* |
| 10:05 a.m.<br>Page 11 | **Chairperson's report** | *Judge Winthrop* |
| 10:35 a.m.<br>Page 21 | **Arizona Judiciary Policy Against Employment Discrimination and Harassment** | *David Withey, AOC Chief Counsel* |
| 10:50 a.m.<br>Page 27 | **Overview of Strategic Planning for Next Strategic Agenda** | *Cindy Trimble, AOC* |
| 11:15 a.m.<br>Page 29 | **Report from the Self-Represented Litigants in Limited Jurisdiction Courts Workgroup** | *Judge Anna Huberman* |
| 11:30 a.m.<br>Page 31 | **Legislative Update**<br>• **SB1376:** Changes the number of days the landlord is required to hold the tenant's personal property from 21 to 14 days. | *Judge Huberman* |
| 11:35 a.m.<br>Page 39 | **Update on Rule Petitions**<br>• **R-18-0020:** Subsidized housing pleading requirements and disclosure requirements<br>• **R-18-0021:** To adopt rules of small claims procedures in justice courts | *Julie Graber, AOC Staff* |

- **R-18-0004:** To allow non-lawyers to represent certain types of small business entities in court

| | | |
|---|---|---|
| 11:40 a.m.<br>Page 47 | **Update on the Public Information and Messaging Workgroup** | *Rick DeBruhl*<br>*Heather Murphy* |
| 11:55 a.m.<br>Page 49 | **Update on the AZCourtHelp.org website** | *Dr. Kevin Ruegg*<br>*Theresa Barrett, AOC* |

**Lunch Break**

| | | |
|---|---|---|
| 1:00 p.m.<br>Page 53 | **Report from the Judicial and Attorney Engagement Workgroup** | *Dr. Kevin Ruegg*<br>*Kevin Groman* |
| 1:20 p.m.<br>Page 55 | **Report from the Inter-Governmental Collaboration Workgroup** | *Judge Winthrop*<br>*Chris Groninger* |
| 1:55 p.m. | **Good of the Order / Call to the Public** | *Judge Winthrop* |

Future meeting dates:
**September 19, 2018 (may be a virtual meeting)**
**November 14, 2018**

Adjournment

**2018 Meeting**
**September 19, 2018**

10:00 a.m. to 2:00 p.m.
State Courts Building, Phoenix, Arizona
Conference Room 119

**Arizona Commission on Access to Justice**
**DRAFT MINUTES**
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**Member comments:**

- Training should be provided to legal aid services before the pilot projects launch so they can refer individuals.
- Judge Barton reported that family law post-decree will use a different process than debt collection because of the need for a mediator.
- Mr. Reinkensmeyer reported that the AOC will pay the front-end costs as well as user and transaction fees during the pilot projects. The intent is for courts to pick up some of the costs because of the cost savings resulting from efficiencies.

**D. Report from the Self-Represented Litigants in Limited Jurisdiction Courts (SRL-LJC) Workgroup**

Judge Anna Huberman reported that the workgroup is working on developing *Legal Info Videos* for eviction actions to complement the *Legal Info Sheets* that have already been created and posted. The *Legal Info Videos* will be more effective than the *Legal Info Sheets*, but they are more time consuming to develop. The workgroup has drafted eight scripts, which have been storyboarded by staff. Comments are due in a couple of weeks. The storyboards will be translated into Spanish once they are approved by the workgroup. The goal is to launch the videos as a series in both English and Spanish in April. An example video entitled "Your Landlord is Taking you to Court" was presented to the members.

**E. New Rule Change Petition**

Judge Huberman reported on SRL-LJC's discussion of a new rule petition (R-18-0020) filed by the State Bar, which would add pleading requirements to the complaint in eviction actions if the rental unit is subsidized housing as well as a disclosure requirement regarding rent apportionment between the tenant and the public housing entity. The workgroup generally supported the rule petition but suggested the commission file a comment with recommended language changes.

**Motion:** To support R-18-0020 generally and authorize Judge Winthrop, Judge Huberman, and Pam Bridge to draft a comment in support of the rule petition with recommended language changes, as discussed. **Seconded:** Judge Berning. **Vote:** Unanimous with one abstention.

**F. Update on Rule Petitions**

Julie Graber reported that R-16-0022 regarding change of judge in eviction actions was adopted on a permanent basis, effective January 1, 2018.

**G. Update on Public Information and Messaging Workgroup**

Heather Murphy reported on the workgroup's current projects regarding access to justice.

- AOC staff is in the process of redesigning the English and Spanish Self-Service Centers on azcourts.gov in a similar way as AZCourtHelp.org.

- The workgroup is developing a unique podcast series in which a Supreme Court Justice will be a guest host interviewing a subject-matter expert in a conversational tone on a topic. Podcasts will be five to twelve minutes in length and available on AZCourtHelp.org and azcourts.gov.

**H. Update on the AZCourtHelp.org website**

Dr. Kevin Ruegg reviewed the Google Analytics and reported that there have been 42,419 unique users since the launch. She reviewed the goals for 2018:

- Make forms fillable
- Provide guided interviews for dissolutions, legal decision-making, and parenting time
- Provide a partner portal to local courts that do not have their own website
- Include jury service information

Theresa Barrett discussed the traditional and digital marketing efforts, such as the redesign of the postcard and the creation of business cards.

**I. Report regarding Access to Justice in Tucson and in Federal Court**

Stacy Butler discussed three access to justice topics in Tucson and in federal court.

1. Step Up to Justice is a civil *pro bono* law center in Tucson, which attempts to bridge the justice gap for low-income clients. Ms. Butler reported that if individuals were represented by counsel, their outcome was three-times more favorable for guardianships, four-times more favorable for women in domestic violence cases, and nineteen-times more favorable for tenants in housing cases. She discussed JusticeServer, which is innovative software connecting low-income individuals to volunteer attorneys by providing effective client triage for direct representation, clinics, and court programs. It allows attorneys to volunteer from their desk and staff to track work in real time in a more efficient manner. In the first year of operation, Step Up to Justice served 1,000 clients and delivered the equivalent of $1 million in free civil legal services, which represents a 20 percent increase in access to justice in Pima County. Ms. Butler described sustainability and projected growth for Step Up to Justice, whose model delivers significant cost reduction per case from $215 to $147.

**Member comments:**

- Are you eligible for IOLTA funding as a provider of legal services? It has been discussed but Step Up to Justice has not applied yet.
- What entices an attorney to do *pro bono* work through Step Up to Justice instead of another organization? Step Up to Justice offers a menu of options, whether it is direct representation or a clinic setting.

2. Ms. Butler discussed resources for self-represented litigants in federal court since 2014. Volunteer attorney clinics began in Tucson in 2015 in partnership with Step Up to Justice. Based on the success of these clinics, clinics began in

Phoenix in 2017. Additional resources were developed, including "The Handbook for Self-Represented Litigants," which takes the self-represented litigant from the start to the finish of the process, and E Pro Se, which is a web-based complaint drafting tool. The website was improved by providing a section entitled "For those Proceeding Without an Attorney." Resources for chambers staff were added on the intranet on how to deal with incarcerated and non-incarcerated self-represented litigants.

**Member comments:**

- Is there consideration to create mediation by court staff for self-represented litigant cases? There is no formal system for non-incarcerated self-represented litigants to get into early mediation.

3. Ms. Butler described the access to justice course that she taught at the University of Arizona. The course objectives included being a problem-finder from the point of view of a self-represented litigant, diversifying perspectives beyond the legal community, and building smart solutions while understanding the end-user. She described some of the lessons learned from the projects: online resources are not a fix-all; resources may be hard to find or use; resources may not match the need; you cannot solve a problem you do not understand; importance of obtaining a diversity of perspectives; and solutions do not necessarily take a lot of money and resources.

**Member comments:**

- The commission was very impressed by this course and recommended that it be taught at every law school. The approach would be a great complement to existing clinical programs.

**J. Report from the Judicial and Attorney Engagement Workgroup**

Kevin Groman discussed how the In-House Counsel *Pro Bono* Commission has been working on removing barriers for in-house counsel to do *pro bono* and identified the issue of time as the most difficult challenge. Mr. Groman invited in-house counsel to attend the meeting and review the types of initiatives that the commission has been pursuing.

- Appreciation lunch for Association of Corporate Counsel – AZ Chapter, which won the national award for *pro bono* work.
- Commercial court mediation program to help small businesses. All nine cases were settled.
- Library effort working group has held successful programs for small business and people with modest means.

Judge Kreamer reported that the workgroup has been working on drafting a letter to send to law firms asking about their *pro bono* policies and activities. Chief Justice Bales recently approved the letter, which will be sent out shortly. The workgroup will be holding a strategic discussion exploring options based on the responses received.

## III. OTHER BUSINESS

### A. Good of the Order/Call to the Public

John Phelps updated members on the Public Service Center, which will launch in March as a way for consumers to connect with attorneys.

### B. Next Meeting Date

Wednesday, May 23, 2018
10:00 a.m. to 2:00 p.m.
State Courts Building, Room 119
1501 W. Washington Street
Phoenix, AZ 85007

Adjourned at 1:59 p.m.

# Arizona Depends on Legal Services

## DON'T CUT LEGAL SERVICES CORPORATION

**Sen. John McCain (R-AZ)**

People in

## Arizona

who can benefit from LSC programs:




- **696,660** Rural Residents
- **1,898,740** Seniors
- **666,608** Veterans #19 in Country*
- **1,243,060** Living in Poverty #10 in Country*
- **217** Disaster Declarations

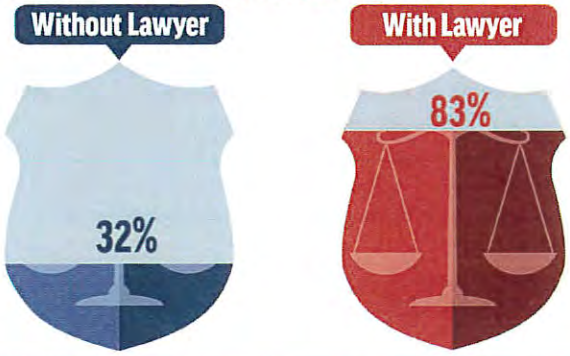
*per capita

## EVERY YEAR LSC PROVIDES LEGAL AID FOR:




LOW-INCOME AMERICANS & THEIR FAMILIES

**Chances that a victim of domestic violence will obtain a restraining order:**

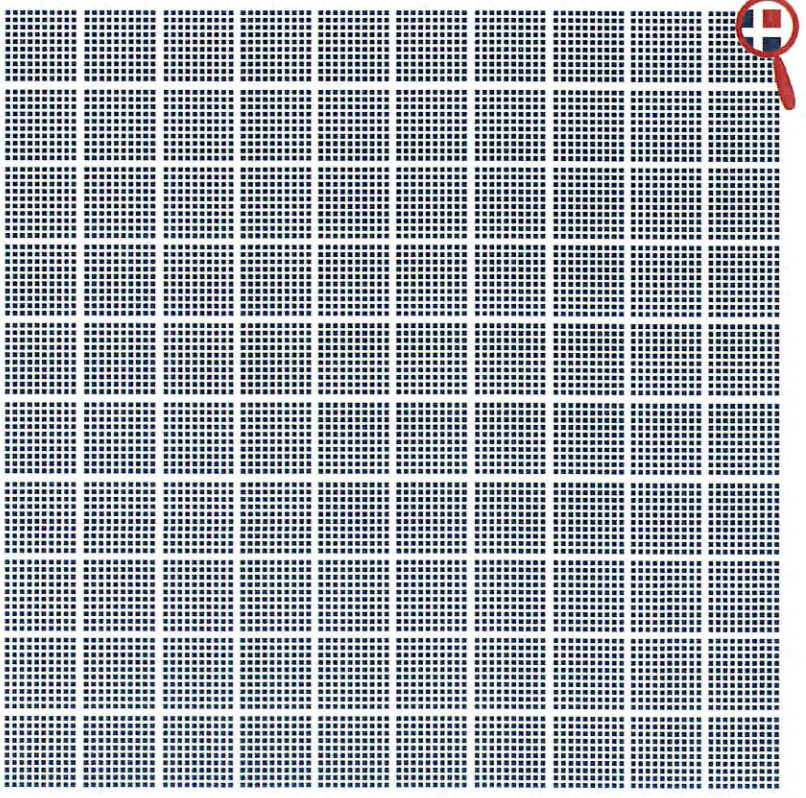



## TOTAL FEDERAL BUDGET

$3.9 TRILLION ■ = $390 MILLION

## TOTAL LSC BUDGET

$385 MILLION (1/10,000th)



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# Arizona Depends on Legal Services

## DON'T CUT LEGAL SERVICES CORPORATION

**Sen. Jeff Flake (R-AZ)**
Judiciary Cmte

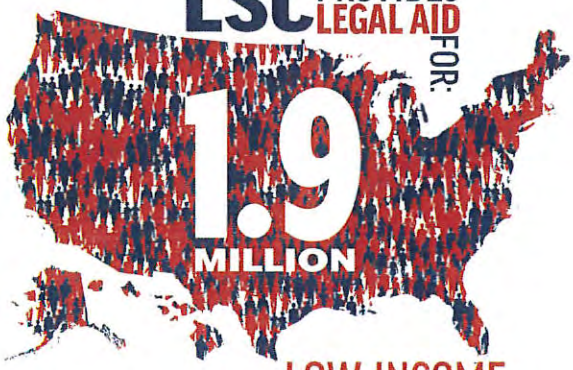
People in
# Arizona
who can benefit from LSC programs:




- **696,660** Rural Residents
- **1,898,740** Seniors
- **666,608** Veterans — #19 in Country*
- **1,243,060** Living in Poverty — #10 in Country*
- **217** Disaster Declarations

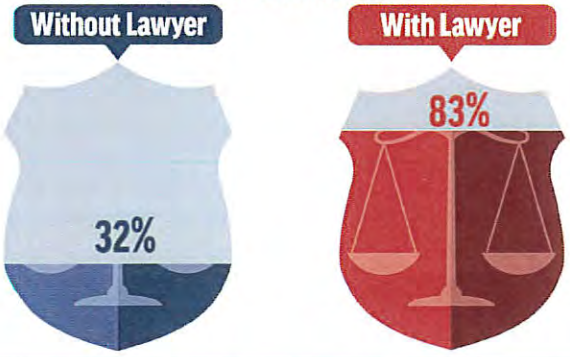
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## EVERY YEAR LSC PROVIDES LEGAL AID FOR:




LOW-INCOME AMERICANS & THEIR FAMILIES

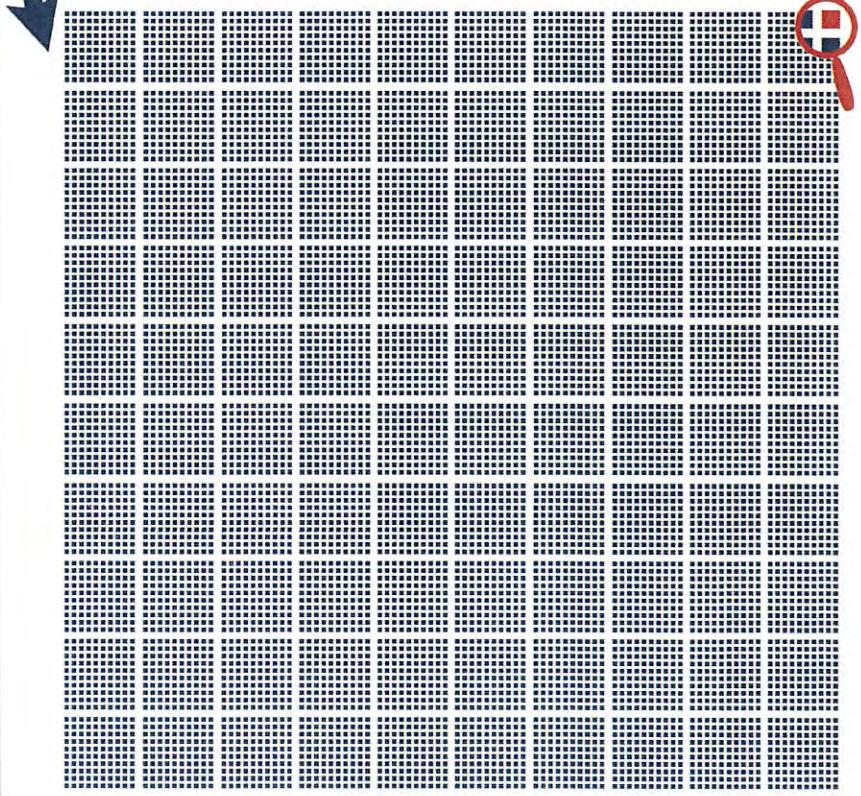
**Chances that a victim of domestic violence will obtain a restraining order:**




## TOTAL FEDERAL BUDGET vs. TOTAL LSC BUDGET

$3.9 TRILLION ■ = $390 MILLION

$385 MILLION (1/10,000th)



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# Arizona's 1st District Depends on Legal Services

## DON'T CUT LEGAL SERVICES CORPORATION

**Rep. Tom O'Halleran (D-AZ-01)**

People in

## Arizona's 1st District

who can benefit from LSC programs:




- **265,300** Rural Residents — #84 in Country*
- **203,000** Seniors
- **66,500** Veterans
- **153,300** Living in Poverty — #59 in Country*
- **163** Disaster Declarations

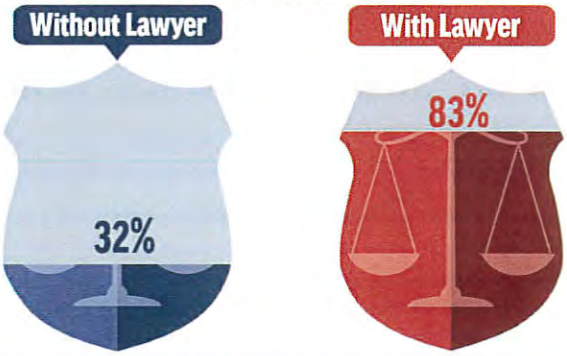
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## EVERY YEAR LSC PROVIDES LEGAL AID FOR:




LOW-INCOME AMERICANS & THEIR FAMILIES

**Chances that a victim of domestic violence will obtain a restraining order:**

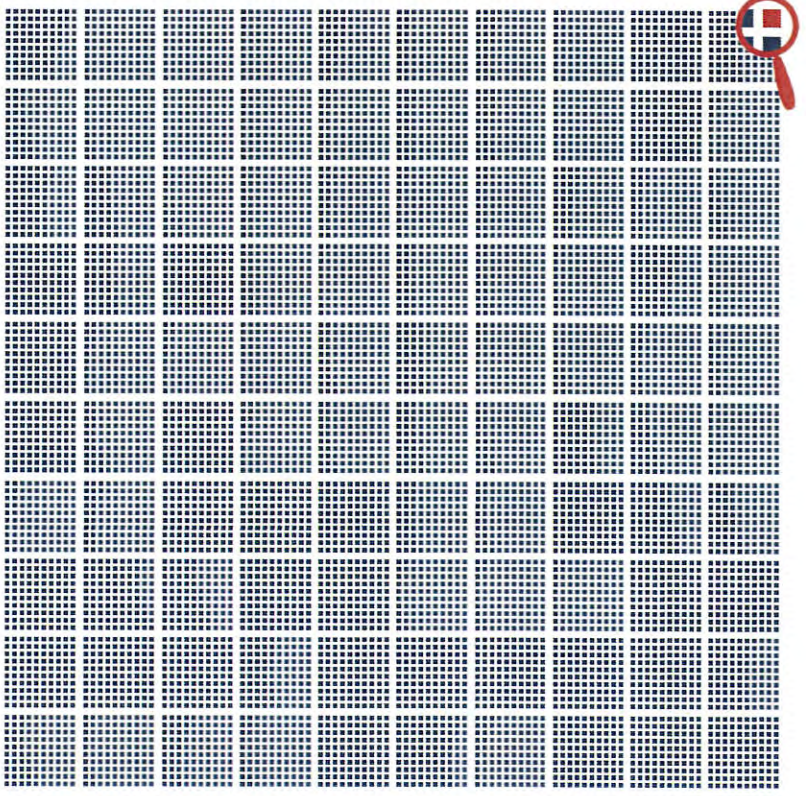



## TOTAL FEDERAL BUDGET

$3.9 TRILLION ■ = $390 MILLION

## TOTAL LSC BUDGET

$385 MILLION (1/10,000th)



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# Arizona's 2nd District Depends on Legal Services

## DON'T CUT LEGAL SERVICES CORPORATION

**Rep. Martha McSally (R-AZ-02)**

People in

## Arizona's 2nd District

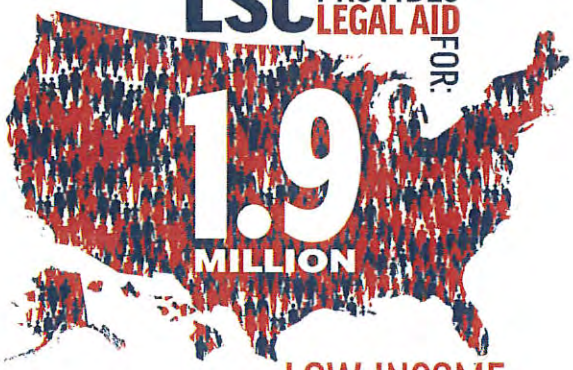
who can benefit from LSC programs:




- **75,600** Rural Residents
- **231,700** Seniors — #38 in Country*
- **104,300** Veterans — #14 in Country*
- **108,500** Living in Poverty
- **23** Disaster Declarations

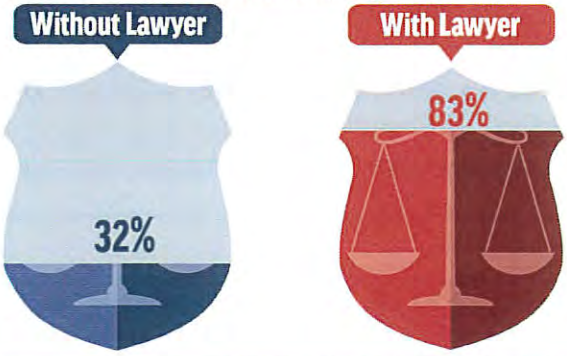
*per capita

## EVERY YEAR LSC PROVIDES LEGAL AID FOR:




LOW-INCOME AMERICANS & THEIR FAMILIES

**Chances that a victim of domestic violence will obtain a restraining order:**

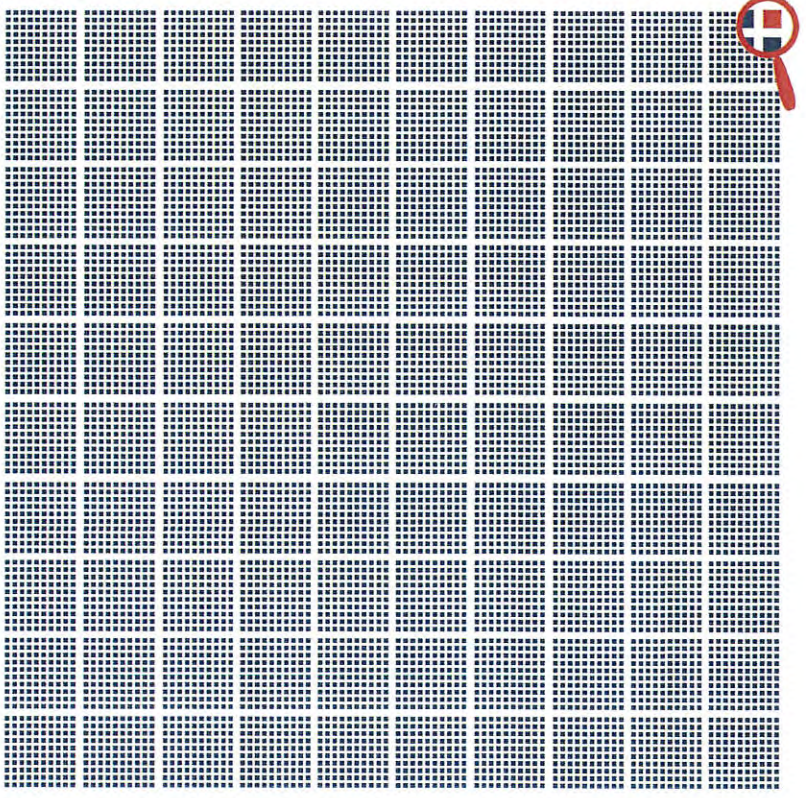



## TOTAL FEDERAL BUDGET

$3.9 TRILLION ■ = $390 MILLION

## TOTAL LSC BUDGET

$385 MILLION (1/10,000th)



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# Arizona's 3rd District Depends on Legal Services

## DON'T CUT LEGAL SERVICES CORPORATION

**Rep. Raúl M. Grijalva (D-AZ-03)**
Education & Workforce Committee

People in
## Arizona's 3rd District
who can benefit from LSC programs:




- **78,400** Rural Residents
- **143,500** Seniors
- **48,300** Veterans
- **178,500** Living in Poverty #27 in Country*
- **53** Disaster Declarations

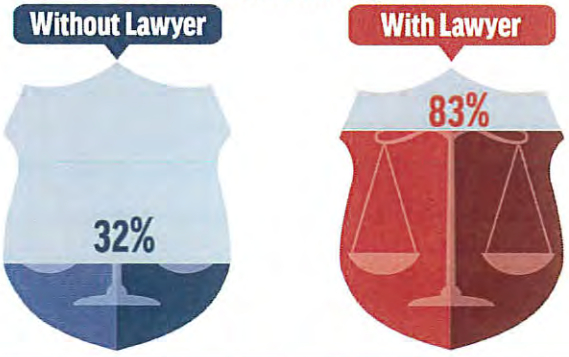
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## EVERY YEAR LSC PROVIDES LEGAL AID FOR:



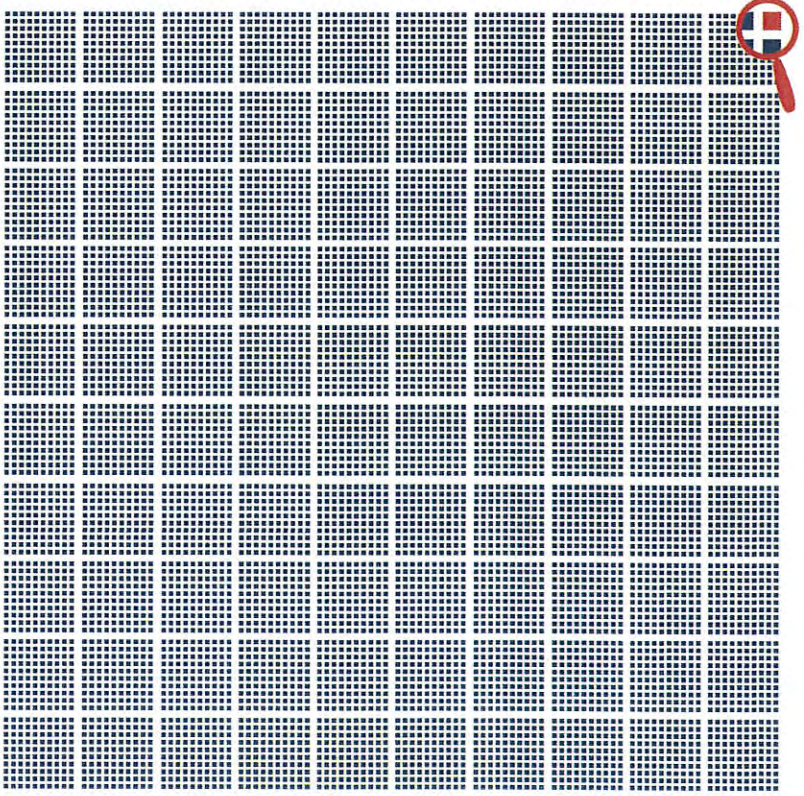

LOW-INCOME AMERICANS & THEIR FAMILIES

**Chances that a victim of domestic violence will obtain a restraining order:**




## TOTAL FEDERAL BUDGET
$3.9 TRILLION ■ = $390 MILLION

## TOTAL LSC BUDGET
$385 MILLION (1/10,000th)



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# Arizona's 4th District Depends on Legal Services

## DON'T CUT LEGAL SERVICES CORPORATION

**Rep. Paul Gosar (R-AZ-04)**

People in

## Arizona's 4th District

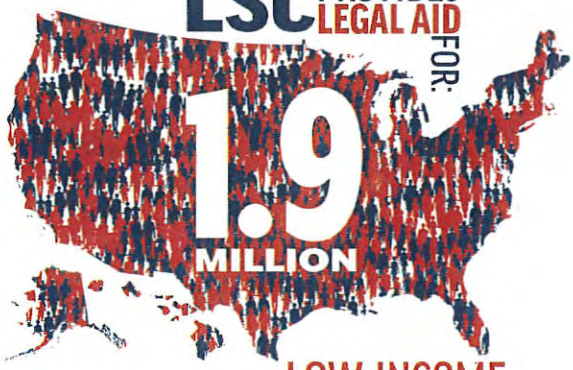
who can benefit from LSC programs:




- **181,300** Rural Residents
- **284,900** Seniors #7 in Country*
- **103,600** Veterans #15 in Country*
- **112,000** Living in Poverty
- **91** Disaster Declarations

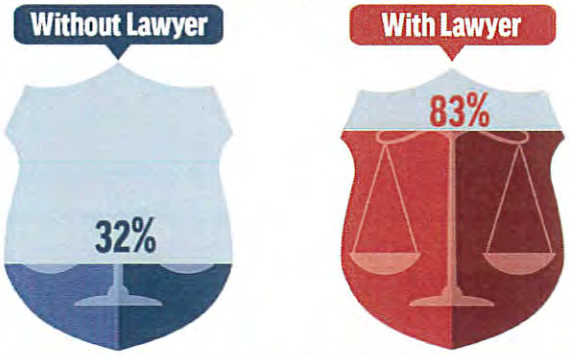
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## EVERY YEAR LSC PROVIDES LEGAL AID FOR:




LOW-INCOME AMERICANS & THEIR FAMILIES

**Chances that a victim of domestic violence will obtain a restraining order:**

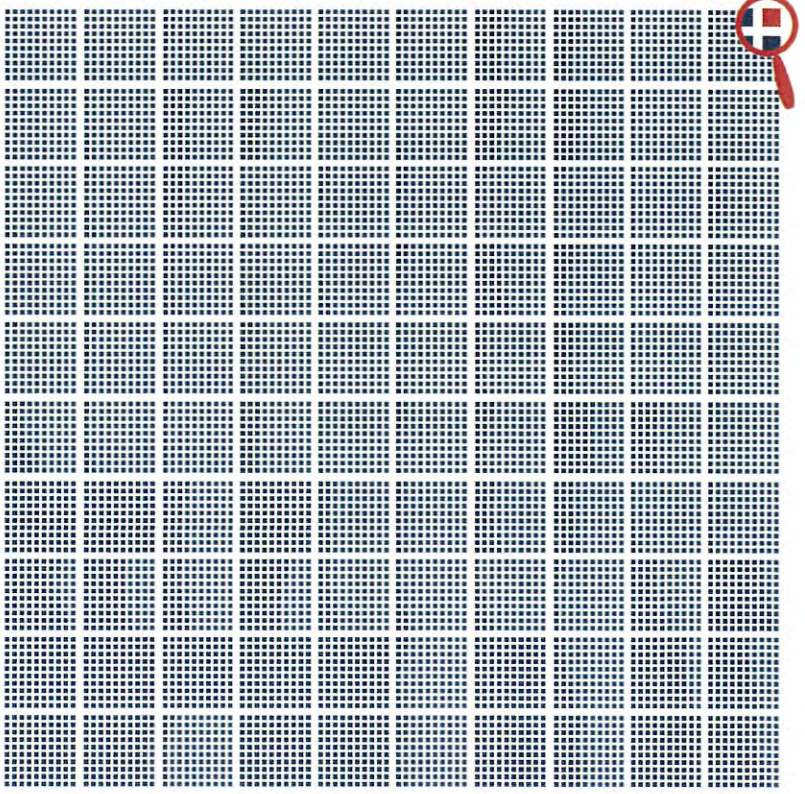



## TOTAL FEDERAL BUDGET

$3.9 TRILLION ■ = $390 MILLION

## TOTAL LSC BUDGET

$385 MILLION (1/10,000th)



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# Arizona's 5th District Depends on Legal Services

## DON'T CUT LEGAL SERVICES CORPORATION

**Rep. Andy Biggs (R-AZ-05)**
Lawyer; Judiciary Committee

People in
## Arizona's 5th District
who can benefit from LSC programs:




- **2,100** Rural Residents
- **182,000** Seniors
- **65,800** Veterans
- **72,100** Living in Poverty
- **16** Disaster Declarations

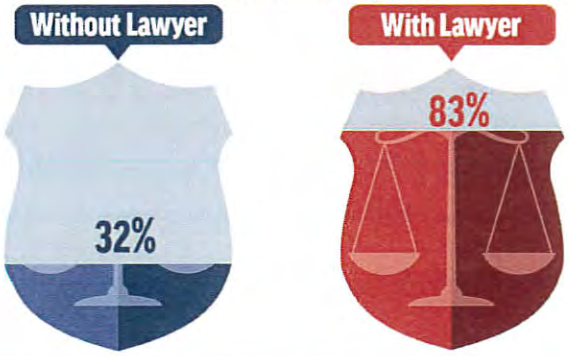
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## EVERY YEAR LSC PROVIDES LEGAL AID FOR:



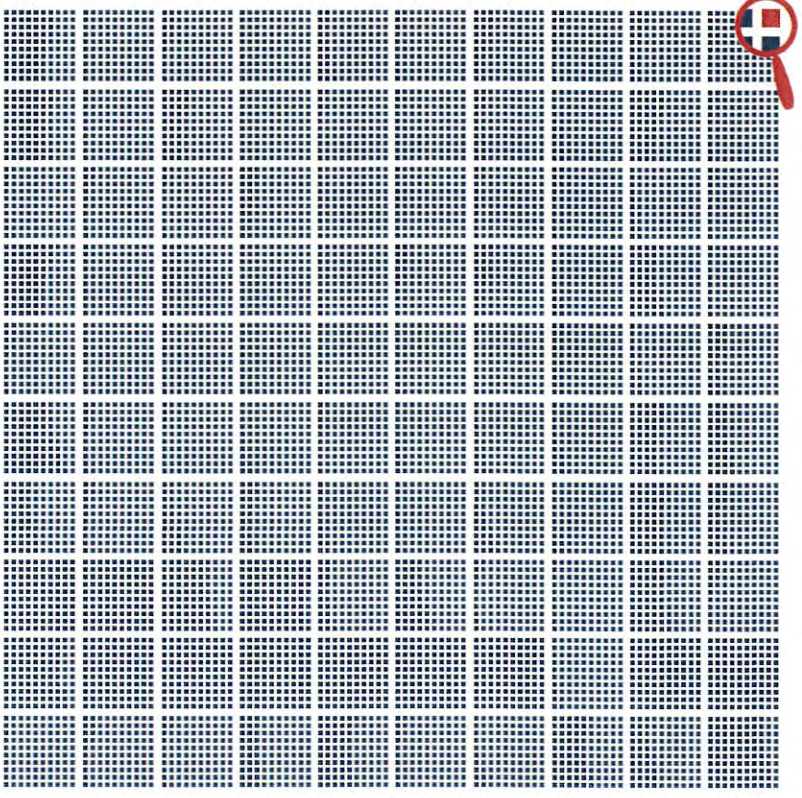

LOW-INCOME AMERICANS & THEIR FAMILIES

**Chances that a victim of domestic violence will obtain a restraining order:**




## TOTAL FEDERAL BUDGET
$3.9 TRILLION ■ = $390 MILLION

## TOTAL LSC BUDGET
$385 MILLION (1/10,000th)



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# Arizona's 6th District Depends on Legal Services

## DON'T CUT LEGAL SERVICES CORPORATION

**Rep. David Schweikert (R-AZ-06)**

People in

## Arizona's 6th District

who can benefit from LSC programs:




- **21,700** Rural Residents
- **210,700** Seniors
- **56,000** Veterans
- **85,400** Living in Poverty
- **16** Disaster Declarations

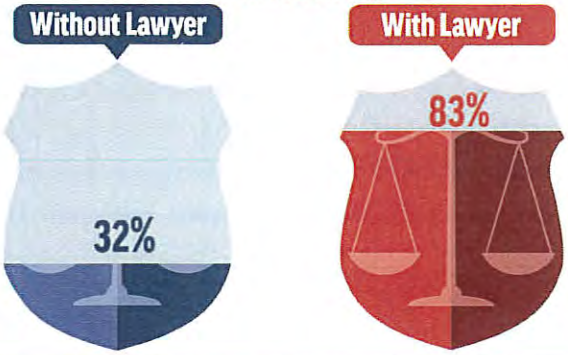
*per capita

## EVERY YEAR LSC PROVIDES LEGAL AID FOR:




LOW-INCOME AMERICANS & THEIR FAMILIES

**Chances that a victim of domestic violence will obtain a restraining order:**

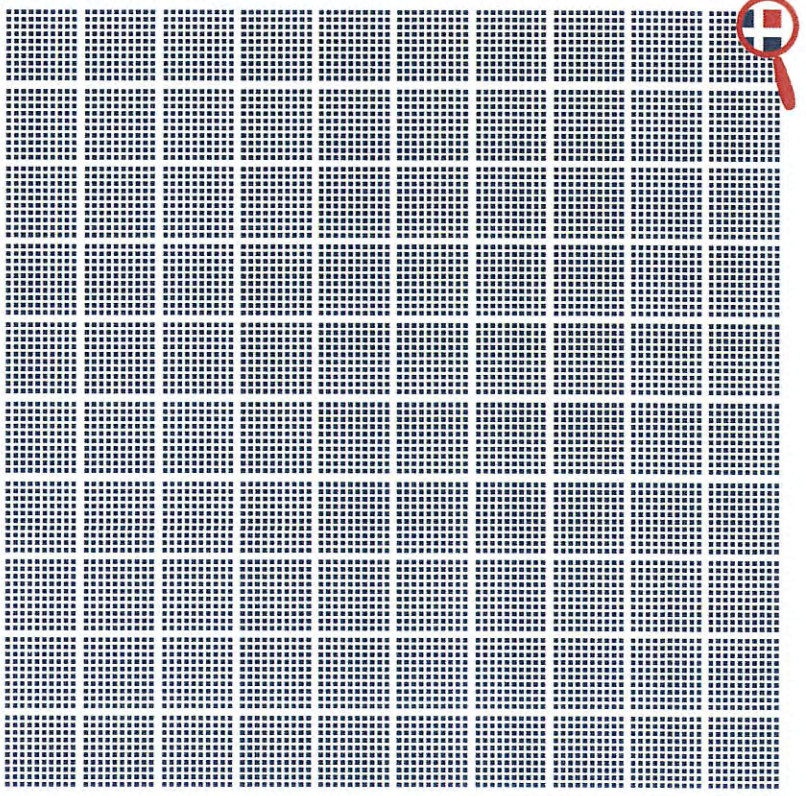



## TOTAL FEDERAL BUDGET

$3.9 TRILLION ■ = $390 MILLION

## TOTAL LSC BUDGET

$385 MILLION (1/10,000th)



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# Arizona's 7th District Depends on Legal Services

## DON'T CUT LEGAL SERVICES CORPORATION

**Rep. Ruben Gallego (D-AZ-07)**

People in

## Arizona's 7th District

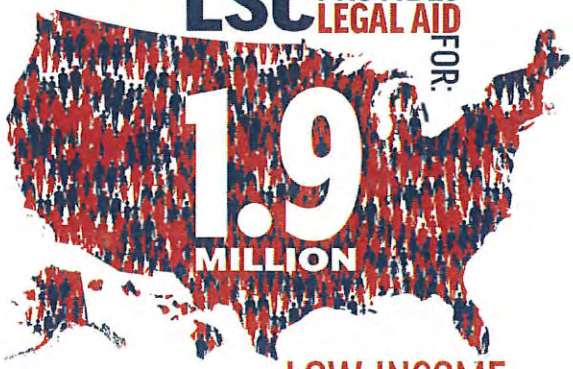
who can benefit from LSC programs:




- **700** Rural Residents
- **108,500** Seniors
- **33,600** Veterans
- **247,100** Living in Poverty #3 in Country*
- **16** Disaster Declarations

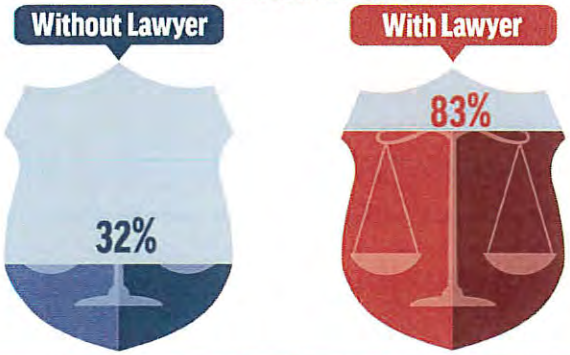
*per capita

## EVERY YEAR LSC PROVIDES LEGAL AID FOR:




LOW-INCOME AMERICANS & THEIR FAMILIES

**Chances that a victim of domestic violence will obtain a restraining order:**

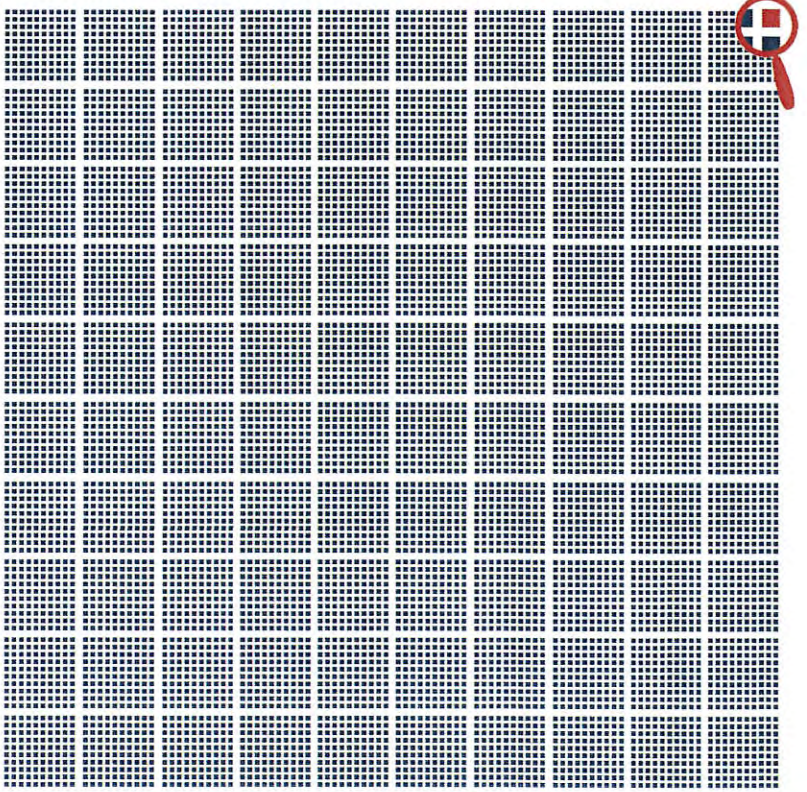



## TOTAL FEDERAL BUDGET

$3.9 TRILLION ■ = $390 MILLION

## TOTAL LSC BUDGET

$385 MILLION (1/10,000th)



AMERICAN BAR ASSOCIATION

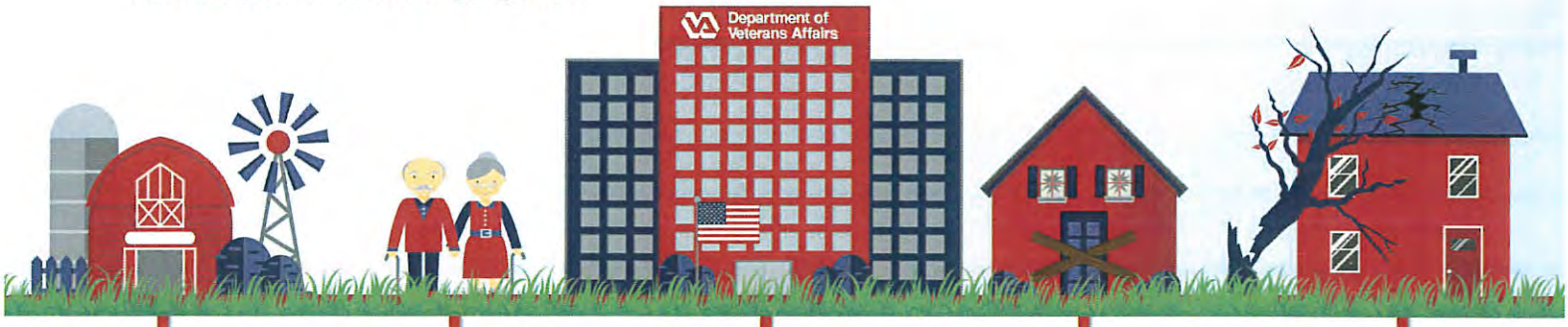
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ALOYSIUS.HOGAN@AMERICANBAR.ORG

# Arizona's 9th District Depends on Legal Services

## DON'T CUT LEGAL SERVICES CORPORATION

**Rep. Kyrsten Sinema (D-AZ-09)**
Lawyer

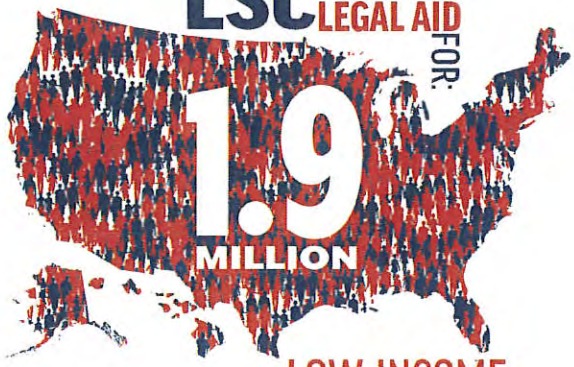
People in
## Arizona's 9th District
who can benefit from LSC programs:




- Rural Residents
- 156,100 Seniors
- 51,100 Veterans
- 121,100 Living in Poverty
- 16 Disaster Declarations

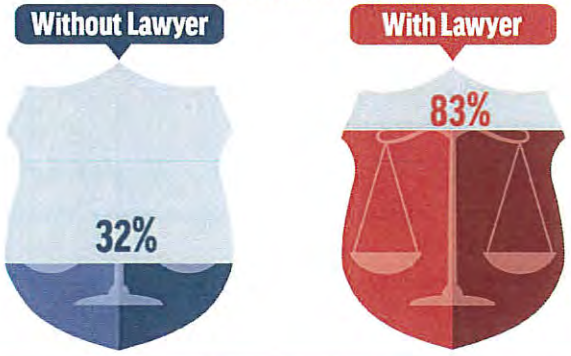
*per capita

## EVERY YEAR LSC PROVIDES LEGAL AID FOR:



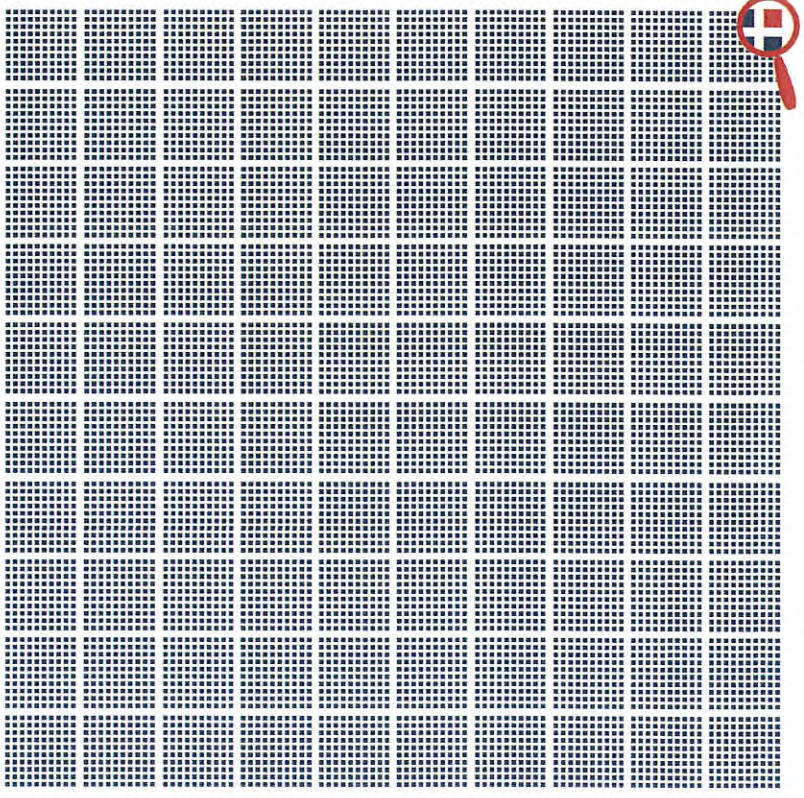

LOW-INCOME AMERICANS & THEIR FAMILIES

**Chances that a victim of domestic violence will obtain a restraining order:**




## TOTAL FEDERAL BUDGET
$3.9 TRILLION ■ = $390 MILLION

## TOTAL LSC BUDGET
$385 MILLION (1/10,000th)



AMERICAN BAR ASSOCIATION
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# Arizona Commission on Access to Justice

| Meeting Date: | Type of Action Requested: | Subject: |
|---|---|---|
| May 23, 2018 | ☒ Formal action or request<br>☐ Information only<br>☐ Other | Legal Services Corporation Funding (as part of the Chairperson's Report) |

From: Judge Lawrence F. Winthrop

Presenters: (Same)

Discussion: Judge Winthrop will discuss sending a letter to Legal Services Corporation in support of its FY 2019 budget request to Congress.

Recommended motion: To authorize the ACAJ chair to send a letter to Legal Services Corporation in support of its FY 2019 budget request to Congress.

LAWRENCE F. WINTHROP
JUDGE

Phone (602) 452-6795

# Court of Appeals

STATE OF ARIZONA
DIVISION ONE
STATE COURTS BUILDING
1501 WEST WASHINGTON STREET
PHOENIX, ARIZONA 85007

May 23, 2018

VIA EMAIL (richardsond@lsc.gov)

Mr. David Richardson
Treasurer, Legal Services Corporation
3333 K Street, NW 3rd Floor
Washington, DC 20007-3522

Dear Mr. Richardson:

Every day, hundreds of vulnerable low-income Arizonans must face civil legal challenges involving housing, medical care, employment and denial of critical benefits. Because of their financial status, these individuals cannot afford to hire a lawyer, and instead must seek assistance from our state's legal aid providers, Community Legal Services, Inc. (CLS), DNA – People's Legal Services, Inc. (DNA), and Southern Arizona Legal Aid, Inc. (SALA). Over forty years ago, Congress recognized the importance of insuring adequate funding for civil legal aid services, and created the Legal Service Corporation (LSC) to provide funding to approved legal aid agencies in each state. Unfortunately, Congress has not fulfilled its promise to adequately fund the essential work of LSC and its approved state providers.

On behalf of the 20-member Arizona Commission on Access to Justice, as well as all those who care about unmet civil legal needs, we urge Congress to fully fund LSC at its Fiscal Year 2020 budget request of $564.8 million.

Geographically, Arizona is the sixth largest state; in terms of population, it ranks 14th nationally. With Federal and State governments owning almost 60% of the land, we are really a state of several urban centers and a lot of fairly remote, rural areas. Additionally, Arizona leads the nation with the largest percentage of tribal lands. These factors combine to create a state where, notwithstanding improved national economic conditions, the poverty rate in Arizona remains persistently higher than other states. Only some individuals facing critical civil issues can afford to hire an attorney. Most cannot.

You already know how under-resourced the 133 LSC-funded providers are. Arizona's legal aid staffs struggle every day to triage requests for help and to allocate limited legal resources. Without question, additional financial resources would allow these offices to have greater geographic reach and to provide services to more clients. Notwithstanding the Congressional

promise of adequate funding, Arizona's LSC providers are diligently working to supplement and diversify their income sources by seeking alternative funding through local appropriations, grants, philanthropic foundations, and private donors. Professional fundraisers are building and implementing the case for increased public and private support at each program. Congressional support and adequate funding for LSC, however, remain critically important, and we urge approval of increased funding in that regard.

**Demographics and Service Data for Arizona LSC providers**

**Community Legal Services, Inc.**
$7.47 million total budget, 80% LSC funds.
5,164 cases closed. The top four categories: 34% housing; 24% family; 17% consumer; 11% income.
76 total staff, 32 attorneys, in six offices.
**Service area**:
LaPaz County – 20,601 population; $36,321 median income; 24.8% poverty rate.
Maricopa County – 4,307,033 population; $55,676 median income; 15% poverty rate.
Mohave County – 207,200 population; $39,856 median income; 18.3% poverty rate.
Yavapai County – 225,168 population; $46,638 median income; 13.3% poverty rate.
Yuma County – 207,534 population; $41,467 median income; 19.3% poverty rate.

**DNA – People's Legal Services, Inc.**
$4.2 million total budget, 70% LSC funds.
1,594 cases closed. The top four categories: 51% family; 17% consumer; 8% Misc.; 7% housing.
66 total staff, 30 lawyers, in nine offices (four in Arizona, four in New Mexico, one in Utah).
**Service area**:
Coconino County, Apache County A (the Navajo and Hopi reservation areas of that county), Navajo County A (the Navajo and Hopi Reservation areas of the county), San Juan County, Native Americans living on or near the Navajo Reservation in Arizona, New Mexico, and Utah, and the Hopi Reservation in Arizona, and members living off reservation who have cases which require litigation in tribal court, Native Americans living on or near the Jicarilla Indian Reservation.
Apache County (totals for entire county) – 71,606 population; $32,460 median income; 33.2% poverty rate.
Coconino County – 140,776 population; $51,106 median income; 17.8% poverty rate.
Jicarilla Indian Reservation – 2,743 population; $26,818 median income; 29.5% poverty rate.
Navajo County (totals for entire county) – 108,956 population; $36,868 median income; 28.2% poverty rate.
San Juan County – 115,079 population; $48,624 median income; 17.4% poverty rate.

**Southern Arizona Legal Aid, Inc.**
$4.93 million total budget, 54% LSC funds.
5,433 cases closed. The top four categories: 44% family; 20% housing; 14% consumer; 6% juvenile.
62 total staff, 25 lawyers, in five LSC-funded offices and one office funded by the Gila River Indian Community.

**Service area**:
Apache County B (all of Apache County, except the Navajo and Hopi Reservations), Cochise County, Gila County, Graham County, Greenlee County, Navajo County B (all of Navajo County except the Navajo and Hopi Reservations), Pima County, Pinal County, Santa Cruz County, Native Americans living in Gila and Graham counties who are members of the San Carlos Apache Indian Reservations and tribal members living off reservation who have cases which require litigation in tribal court; Native Americans living off reservation in Maricopa County; Native Americans living on or near the Tohono O'odham Reservation in Pima, Pinal, and Maricopa counties and Tohono O'odham tribal members living off reservation who have cases which require litigation in tribal court; and Native Americans living in (1) Fort Apache Indian Reservation which covers portions of Gila, Apache, and Navajo counties, (2) Gila River Indian Community in Pinal and Maricopa counties, Ak-Chin Indian Community in Pinal County, Cocopah Indian Community and Ft. Yuma Indian Community in Yuma County, (3) Salt River Pima-Maricopa Indian Community and Ft. McDowell Mohave-Apache Tribe in Maricopa County, (4) Camp Verde Yavapai-Apache Indian Community in Yavapai County, (5) Pascua Yaqui Indian Community in Pima County, and tribal members living off reservations who have cases which require litigation in tribal court.
Apache County – Apache County (totals for entire county) – 71,606 population; $32,460 median income; 33.2% poverty rate. ochise County – 124,756 population; $45,383 median income; 21.1% poverty rate.
Gila County – 54,556 population; $40,593 median income; 20.3% poverty rate.
Graham County – 37,466 population; $47,422 median income; 22.9% poverty rate.
Greenlee County – 9,455 population; $51,813 median income; 12% poverty rate.
Navajo County – please see under DNA Peoples Legal Services, Inc.
Pima County – 1,022,769 population; $46,764 median income; 18.2% poverty rate.
Pinal County – 430,237 population; $51,190 median income; 15.4% poverty rate.
Santa Cruz County – 46,212 population; $38,941 median income; 20.9% poverty rate.

**Examples of Innovative Use of Federal Funds by LSC attorneys**

Through Low-Income Tax Credit (LITC) grant funding, CLS provides assistance to individuals facing tax debts through direct assistance, education, and outreach. After losing their home to foreclosure and becoming homeless, a couple faced a tax lien of nearly $90,000 that prevented them from collecting $4,000 from a settlement. The wife was facing a critical cancer diagnosis and unable to work and the husband, whose work was project-based, had been laid off. After lengthy negotiations, a CLS attorney was able to settle with the IRS for $500 and the IRS lifted the lien allowing the couple to receive the $4,000; they found stable housing, she was able to focus on her health, and re-build their lives. In 2017, more than 500 household members were educated about their rights.

Four Corners Legal Care, an innovative medical-legal partnership program at DNA – People's Legal Services, Inc., is the flagship model of integrating legal advocacy and healthcare in Indian Country. The standard models of healthcare delivery for American Indians and Alaska Natives communities are failing, in part because Indian Health Services and tribal health centers are not equipped to respond to the tremendous social and legal barriers that keep patients from leading healthy lives. Poverty forces compromises, like choosing between purchasing healthy foods and putting gas in a vehicle to be able to travel to work. Rural Arizonans are isolated from

healthcare, employment opportunities, and social services support. Four Corners Legal Care places attorneys in health centers, broadening the array of treatment tools available to health providers and improves the well-being of patients. An attorney onsite at a healthcare facility ensures timely legal assistance to individual patients, and harness the expertise of health and legal providers to combat systemic practices that burden health.

Outside of Pima and Maricopa counties, engaging pro bono attorneys is challenging. The private bars are small -- there are no firms with more than three to five members -- and the majority of attorneys in rural counties are employed by government agencies. In Greenlee County, for example, there are four attorneys – the Superior Court judge and three lawyers who work for the County Attorney's office.

To address this challenge, SALA received an LSC Technology Innovation Grant to implement web conferencing to pair urban Pima County volunteer attorneys with clients in Southern Arizona's rural areas. A traveling attorney, as well as a paralegal, were successfully funded through a Victims of Crime Act (VOCA) grant to serve three rural counties where there are no SALA offices. The attorney spends one day a month in four separate communities. Private meeting space is provided at no charge by the superior courts. SALA has five full-time employees – two attorneys, a tribal court advocate, crime victim services coordinator, and paralegal – whose employment was made possible by VOCA grant funding.

We are your partner in the fight for access to justice for all. We are hopeful increased funding will help everyone who is working to change lives one case at a time.

Warm Regards,

Lawrence F. Winthrop
Chair, Arizona Commission on Access to Justice

# Arizona Commission on Access to Justice

| Meeting Date: | Type of Action Requested: | Subject: |
|---|---|---|
| May 23, 2018 | ☐ Formal action or request<br>☒ Information only<br>☐ Other | Arizona Judiciary Policy Against Employment Discrimination and Harassment |

From: David Withey, AOC Chief Counsel

Presenters: (Same)

Discussion: A judicial branch policy on sexual harassment in the workplace was first issued by administrative order of the chief justice in 1992 to provide a consistent policy statement for all of the courts in the state and direction regarding the contents of local court policies. The proposed judicial branch policy on discrimination and harassment updates this 1992 policy to extend to all types of harassment in the workplace with specific attention to sexual harassment as currently recommended by the EEOC. If adopted it will reemphasize the judicial branch policy against discrimination and harassment and require each local court to review its policy on this subject to ensure compliance.

Recommended motion: None.

## RULE 2.3 Bias, Prejudice, and Harassment

A judicial employee shall perform court duties without bias or prejudice and shall not manifest bias or prejudice by words or conduct, or engage in harassment in the performance of court duties. This includes but is not limited to bias, prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation.

### Comment

1. A judicial employee who manifests bias or prejudice in the conduct of court business impairs the fairness of the judicial process and brings the judiciary into disrepute.

2. Examples of manifestations of bias or prejudice include but are not limited to epithets; slurs; demeaning nicknames; negative stereotyping; attempted humor based upon stereotypes; threatening, intimidating, or hostile acts; suggestions of connections between race, ethnicity, or nationality and crime; and irrelevant references to personal characteristics. Facial expressions and body language and other forms of nonverbal communication may convey to parties and lawyers in the proceeding, jurors, the media, and others an appearance of bias or prejudice. A judicial employee must avoid conduct that may reasonably be perceived as prejudiced or biased.

3. Harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward a person on bases such as race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socio-economic status, or political affiliation.

4. Sexual harassment includes but is not limited to sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that is unwelcome. See Arizona Supreme Court, Administrative Order 92-33 (Oct. 19, 1992), for the judiciary's sexual harassment policy.

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**
**Part 1: Judicial Branch Administration**
**Chapter 3: Judicial Officers and Employees**
**Section 1-304: Discrimination and Harassment**

[Draft April 2018]

**A. Policy.** It is the policy of the Arizona Judicial Branch that discrimination and harassment, including sexual harassment, in the workplace is prohibited. Employment discrimination and harassment based on sex, race, color, religion, national origin, age, or disability is forbidden. Accordingly, harassment by judicial branch employees shall be grounds for disciplinary action, up to and including dismissal. Harassment by judges is grounds for action under the rules of the Commission on Judicial Conduct. Harassment by vendor employees shall be grounds for termination of vendor contracts.

It is the responsibility of every judge and court employee to strive to create a work environment free of harassment and discrimination. As required by the Code of Judicial Conduct and the Code of Conduct for Judicial Employees, all judges and court employees are expected to avoid bias, prejudice and harassment in the performance of their duties, to treat other court employees, court users, and the public with dignity and respect, and to comply with this policy.

Sexual harassment is sex discrimination which violates individual rights and state and federal law. Sexual harassment is also a form of misconduct which undermines the integrity of the employment relationship and of the court itself. All judges and court employees must be able to work in an environment that is free from unsolicited and unwelcome sexual overtures and innuendo. Sexual harassment debilitates morale and interferes with productivity. Therefore, sexual harassment is unacceptable conduct in the workplace.

**B. Definitions.** In this section, the following definitions apply:

"Discrimination" is differing treatment of an individual, involving any term or condition of employment, based on that individual's race, color, religion, national origin, sex, age, or disability. Discrimination based on these protected classes is prohibited by state and federal law. Courts have held discrimination against an individual because of sexual orientation or because of gender identity, including transgender status, is discrimination because of sex in violation of Title VII.

"Harassment" is verbal or physical conduct that is directed at an individual because of his or her race, color, religion, national origin, sex, age, or disability and that is sufficiently severe, pervasive, or persistent to have the purpose or effect of creating a hostile environment. Courts have held harassment of an individual because of sexual orientation or because of gender identity, including transgender status, is harassment because of sex in violation of Title VII.

"Sexual harassment" includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct or communication of a sexual nature when:

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1. Submission to that conduct or communication is made an explicit or implicit term or condition of obtaining or continuing employment.

2. Submission to or rejection of that conduct or communication by an individual is used as a factor in employment decisions affecting the individual.

3. The conduct or communication has the purpose or effect of substantially interfering with an individual's employment or of creating an intimidating, hostile, or offensive environment.

Sexual harassment may involve relationships of unequal power. Such situations might contain elements of coercion, such as when compliance with requests for sexual favors becomes a criterion for granting or denying privileges or for favorable or unfavorable treatment on the job; however, sexual harassment also might involve relationships among peers, such as when repeated unwelcome advances or unwelcome sexual comments by one co-worker toward another co-worker has a harmful effect on the latter's ability to perform his or her job. Sexual harassment also might involve employee behavior directed at non-employees or non-employee behavior directed at employees. Sexual harassment may occur when it is directed at members of the opposite gender or when it is directed at members of the same gender.

"Workplace" is any location where a judge or an employee is present due to court employment; including locations outside the courthouse or court office, travel to and from those locations, and court sponsored events.

"Retaliation" is an adverse action (e.g., termination, denial of promotion, refusal to hire, unjustified discipline or evaluation, etc.) taken against an individual to deter protected activity or for engaging in protected activity. Protected activity consists of: (1) opposing conduct reasonably believed to constitute discrimination, including harassment, which violates a nondiscrimination statute, this code section, or court policy; (2) reporting such conduct; or (3) testifying, assisting, or participating in any manner in an investigation or other proceeding related to a discrimination complaint.

**C. Duty to Report.** Employees, applicants, and other persons discriminated against or harassed or who have personal knowledge of discrimination or harassment by judges or judicial branch employees in the course of their duties or by anyone in court facilities are responsible for promptly reporting such conduct in accordance with the procedures applicable to each court. Each employee has an affirmative duty to maintain a workplace free of discrimination, harassment, and intimidation. Any form of retaliation against an individual for reporting discrimination or harassment truthfully to the best of that person's knowledge is prohibited and shall be grounds for disciplinary action, which may include termination. A false and malicious report of harassment, discrimination or retaliation (as opposed to a report that, even if erroneous, is made in good faith) will be the subject of appropriate disciplinary action.

**D. Implementation.** Judges and court administrators responsible for the administration of each court shall implement this policy individually or in conjunction with other courts or other governmental entities in the same county or jurisdiction by adopting policies and procedures that are approved by the presiding judge of the county and contain, at a minimum, the following elements:

1. Effective dissemination of this policy and local procedures to every employee by such means as posting in areas highly visible to employees, publication on the court website, and inclusion in employee orientation materials and education materials on this subject.

2. An explanation of the prohibited conduct, including all forms of unlawful harassment, including race, color, gender (both sexual and non-sexual), age, national origin, disability, and religion.

3. A reporting system, available to persons who might experience discrimination or harassment and those who might observe discrimination or harassment, that provides multiple avenues to report in an easily accessible manner.

4. Referral to the Commission on Judicial Conduct for investigation of alleged misconduct of a judge.

5. Clear reporting and investigation procedures.

6. A prompt, thorough, and impartial investigation of employees conducted by a trained investigator.

7. A statement that any information gathered as part of an investigation will be kept confidential to the extent possible consistent with thorough and impartial investigative and disciplinary processes.

8. Assurance of immediate and appropriate corrective action and that the reporting and investigated employees will be informed of the investigation result.

9. Assurance that a reporting or witnessing employee will be protected from retaliation.

**E. Education.** The Administrative Office of the Courts through its Education Services Division shall provide educational opportunities for judges and judicial branch employees regarding this policy statement. Presiding judges of each county shall ensure additional educational opportunities are offered for judges and judicial branch employees within their county regarding this policy and local policies and procedures. Judges, managers, and supervisors must receive education regarding their role and responsibility to identify discrimination and harassment and to take appropriate action pursuant to this policy and local procedures.

1. Submission to that conduct or communication is made an explicit or implicit term or condition of obtaining or continuing employment.
2. Submission to or rejection of that conduct or communication by an individual is used as a factor in employment decisions affecting the individual.
3. The conduct or communication has the purpose or effect of substantially interfering with an individual's employment or of creating an intimidating, hostile, or offensive environment.

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# Arizona Commission on Access to Justice

| Meeting Date: | Type of Action Requested: | Subject: |
|---|---|---|
| May 23, 2018 | ☐ Formal action or request<br>☒ Information only<br>☐ Other | Overview of Strategic Planning for Next Strategic Agenda |

From: Cindy Trimble, AOC Executive Office

Presenters: (Same)

Discussion: Ms. Trimble will discuss the timeframes for strategic planning and obtain feedback on any items the commission would like to include in the next strategic agenda.

Recommended motion: None.

# Arizona Commission on Access to Justice

| Meeting Date: | Type of Action Requested: | Subject: |
|---|---|---|
| May 23, 2018 | ☐ Formal action or request<br>☒ Information only<br>☐ Other | Report from the Self-Represented Litigants in Limited Jurisdiction Courts Workgroup |

From: Judge Anna Huberman, Chair

Presenters: (Same)

Discussion: The workgroup met on March 15, 2018. The presenter will discuss strategic planning focus:

- The workgroup is focusing on developing eviction-related videos that will be available on azcourts.gov and AZCourtHelp.org.
- Eight storyboards have been finalized and staff is working on developing the videos using Vyond, formerly known as GoAnimate.

Recommended motion: None.

# Arizona Commission on Access to Justice

| Meeting Date: | Type of Action Requested: | Subject: |
|---|---|---|
| May 23, 2018 | ☐ Formal action or request<br>☒ Information only<br>☐ Other | Legislative Update |

From: Judge Anna Huberman

Presenters: (Same)

Discussion: Judge Huberman will discuss SB1376, which was signed by Governor Ducey on April 3, 2018, and changes the number of days the landlord is required to hold the tenant's personal property from 21 to 14 days.

Recommended motion: None.

State of Arizona
Senate
Fifty-third Legislature
Second Regular Session
2018

# CHAPTER 127

# SENATE BILL 1376

AN ACT

AMENDING SECTIONS 33-1368 AND 33-1370, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA RESIDENTIAL LANDLORD AND TENANT ACT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 33-1368, Arizona Revised Statutes, is amended to read:

33-1368. Noncompliance with rental agreement by tenant; failure to pay rent; utility discontinuation; liability for guests; definition

A. Except as provided in this chapter, if there is a material noncompliance by the tenant with the rental agreement, including material falsification of the information provided on the rental application, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate ~~upon~~ ON a date not less than ten days after receipt of the notice if the breach is not remedied in ten days. For the purposes of this section, material falsification ~~shall include~~ INCLUDES the following untrue or misleading information about the:

1. Number of occupants in the dwelling unit, pets, income of THE prospective tenant, social security number and current employment listed on the application or lease agreement.

2. Tenant's criminal records, prior eviction record and current criminal activity. Material falsification of information in this paragraph is not curable under this section.

If there is a noncompliance by the tenant with section 33-1341 materially affecting health and safety, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate ~~upon~~ ON a date not less than five days after receipt of the notice if the breach is not remedied in five days. However, if the breach is remediable by repair or the payment of damages or otherwise, and the tenant adequately remedies the breach before the date specified in the notice, the rental agreement will not terminate. If there is an additional act of these types of noncompliance of the same or a similar nature during the term of the lease after the previous remedy of noncompliance, the landlord may institute a special detainer action pursuant to section 33-1377 ten days after delivery of a written notice advising the tenant that a second noncompliance of the same or a similar nature has occurred. If there is a breach that is both material and irreparable and that occurs on the premises, ~~including but not limited to~~ WHICH MAY INCLUDE an illegal discharge of a weapon, homicide as ~~defined~~ PRESCRIBED in sections 13-1102, ~~through~~ 13-1103, 13-1104 AND 13-1105, prostitution as defined in section 13-3211, criminal street gang activity as prescribed in section 13-105, activity as prohibited in section 13-2308, the unlawful manufacturing, selling, transferring, possessing, using or storing of a controlled substance as defined in section 13-3451, threatening or intimidating as prohibited in section 13-1202, assault as prohibited in section 13-1203, acts that have been found to constitute a nuisance pursuant to section 12-991 or a breach of the lease agreement

that otherwise jeopardizes the health, safety and welfare of the landlord, the landlord's agent or another tenant or involving imminent or actual serious property damage, the landlord may deliver a written notice for immediate termination of the rental agreement and shall proceed under section 33-1377. THE FOREGOING LIST OF ACTIONS WHICH MAY CONSTITUTE A MATERIAL AND IRREPARABLE BREACH OF A TENANT'S LEASE IS NOT EXHAUSTIVE.

B. A tenant may not withhold rent for any reason not authorized by this chapter. If rent is unpaid when due and the tenant fails to pay rent within five days after written notice by the landlord of nonpayment and the landlord's intention to terminate the rental agreement if the rent is not paid within that period of time, the landlord may terminate the rental agreement by filing a special detainer action pursuant to section 33-1377. Before the filing of a special detainer action the rental agreement shall be reinstated if the tenant tenders all past due and unpaid periodic rent and a reasonable late fee set forth in a written rental agreement. After a special detainer action is filed the rental agreement is reinstated only if the tenant pays all past due rent, reasonable late fees set forth in a written rental agreement, attorney fees and court costs. After a judgment has been entered in a special detainer action in favor of the landlord, any reinstatement of the rental agreement is solely in the discretion of the landlord.

C. The landlord may recover all reasonable damages~~,~~ resulting from noncompliance by the tenant with the rental agreement or section 33-1341 or occupancy of the dwelling unit, court costs, reasonable attorney fees and all quantifiable damage caused by the tenant to the premises.

D. The landlord may discontinue utility services provided by the landlord on the day following the day that a writ of restitution or execution is executed pursuant to section 12-1181. Disconnections shall be performed only by a person authorized by the utility whose service is being discontinued. ~~Nothing in~~ This section ~~shall~~ DOES NOT supersede standard tariff and operational procedures that apply to any public service corporation, municipal corporation or special districts providing utility services in this state.

~~E. The landlord shall hold the tenant's personal property for a period of twenty-one days beginning on the first day after a writ of restitution or writ of execution is executed as prescribed in section 12-1181. The landlord shall use reasonable care in moving and holding the tenant's property and may store the tenant's property in an unoccupied dwelling unit owned by the landlord, the unoccupied dwelling unit formerly occupied by the tenant or off the premises if an unoccupied dwelling unit is not available. If the tenant's former dwelling unit is used to store the property, the landlord may change the locks on that unit at the landlord's discretion. The landlord shall prepare an inventory and promptly notify the tenant of the location and cost of storage of the personal property by sending a notice by certified mail, return receipt~~

~~requested, addressed to the tenant's last known address and to any of the tenant's alternative addresses known to the landlord. To reclaim the personal property, the tenant shall pay the landlord only for the cost of removal and storage for the time the property is held by the landlord. Within five days after a written offer by the tenant to pay these charges the landlord must surrender possession of the personal property in the landlord's possession to the tenant upon the tenant's tender of payment. If the landlord fails to surrender possession of the personal property to the tenant, the tenant may recover the possessions or an amount equal to the damages determined by the court if the landlord has destroyed or disposed of the possessions before the twenty-one days specified in this section or after the tenant's offer to pay. The tenant shall pay all removal and storage costs accrued through the fifth day after the tenant's offer to pay is received by the landlord or the date of delivery or surrender of the property, whichever is sooner. Payment by the tenant relieves the landlord of any further responsibility for the tenant's possessions.~~

~~F. A tenant does not have any right of access to that property until all payments specified in subsection E of this section have been made in full, except that the tenant may obtain clothing and the tools, apparatus and books of a trade or profession and identification or financial documents including all those related to the tenant's immigration status, employment status, public assistance or medical care. If the landlord holds the property for the twenty-one day period and the tenant does not make a reasonable effort to recover it, the landlord, upon the expiration of twenty-one days as provided in this subsection, may administer the personal property as provided in section 33-1370, subsection E. The landlord shall hold personal property after a writ of restitution or writ of execution is executed for not more than twenty-one days after such an execution. Nothing in this subsection shall preclude the landlord and tenant from making an agreement providing that the landlord will hold the personal property for a period longer than twenty-one days.~~

E. ON THE DAY FOLLOWING THE DAY THAT A WRIT OF RESTITUTION OR EXECUTION IS EXECUTED PURSUANT TO SECTION 12-1181, THE LANDLORD SHALL COMPLY WITH SECTION 33-1370, SUBSECTIONS D, E, F, G, H AND I REGARDING THE TENANT'S PERSONAL PROPERTY.

~~G.~~ F. For the purposes of this chapter, the tenant shall be held responsible for the actions of the tenant's guests that violate the lease agreement or rules or regulations of the landlord if the tenant could reasonably be expected to be aware that such actions might occur and did not attempt to prevent those actions to the best of the tenant's ability.

~~H.~~ G. For THE purposes of this section, "days" means calendar days.

Sec. 2. Section 33-1370, Arizona Revised Statutes, is amended to read:

33-1370. Abandonment; notice; remedies; personal property; definition

A. If a dwelling unit is abandoned after the time prescribed in subsection ~~H~~ J of this section, the landlord shall send the tenant a notice of abandonment by certified mail, return receipt requested, addressed to the tenant's last known address and to any of the tenant's alternate addresses known to the landlord. The landlord shall also post a notice of abandonment on the door to the dwelling unit or any other conspicuous place on the property for five days.

B. Five days after THE notice of abandonment has been both posted and mailed, the landlord may retake the dwelling unit and rerent the dwelling unit at a fair rental value if no personal property remains in the dwelling unit. After the landlord retakes the dwelling unit, money held by the landlord as a security deposit is forfeited and shall be applied to the payment of any accrued rent and other reasonable costs incurred by the landlord by reason of the tenant's abandonment.

C. If the tenant abandons the dwelling unit, the landlord shall make reasonable efforts to rent ~~it~~ THE DWELLING UNIT at a fair rental. If the landlord rents the dwelling unit for a term beginning ~~prior to~~ BEFORE the expiration of the rental agreement, ~~it~~ THE RENTAL AGREEMENT is deemed to be terminated as of the date the new tenancy begins. If the landlord fails to use reasonable efforts to rent the dwelling unit at a fair rental or if the landlord accepts the abandonment as a surrender, the rental agreement is deemed to be terminated by the landlord as of the date the landlord has notice of the abandonment. If the tenancy is from month to month or week to week, the term of the rental agreement for this purpose shall be deemed to be a month or a week, as the case may be.

D. AFTER THE LANDLORD RETAKES POSSESSION OF THE DWELLING UNIT, AND IF THE TENANT'S PERSONAL PROPERTY REMAINS IN THE DWELLING UNIT, THE LANDLORD SHALL PREPARE AN INVENTORY AND NOTIFY THE TENANT OF THE LOCATION AND COST OF STORAGE OF THE PERSONAL PROPERTY IN THE SAME MANNER PRESCRIBED IN SUBSECTION A OF THIS SECTION.

~~D.~~ E. After the landlord ~~has retaken~~ RETAKES possession of the dwelling unit, the landlord may store the tenant's personal possessions in the unoccupied dwelling unit that was abandoned by the tenant, ~~in~~ any other available unit or any storage space owned by the landlord or off the premises if a dwelling unit or storage space is not available. ~~The landlord shall notify the tenant of the location of the personal property in the same manner prescribed in subsection A of this section.~~ THE LANDLORD IS NOT REQUIRED TO STORE THE TENANT'S PERISHABLE ITEMS, PLANTS AND ANIMALS ON BEHALF OF THE TENANT. THE LANDLORD MAY REMOVE OR DISPOSE OF, AS APPROPRIATE, THE PERISHABLE ITEMS, INCLUDING PLANTS. AT THE LANDLORD'S DISCRETION, THE LANDLORD MAY REMOVE AND DISPOSE OF ANY PERSONAL

PROPERTY IN THE DWELLING UNIT THAT IS CONTAMINATED OR MAY BE CONSIDERED A BIOHAZARD OR POSES A HEALTH AND SAFETY RISK. AT THE LANDLORD'S DISCRETION, THE TENANT'S ABANDONED ANIMALS MAY BE IMMEDIATELY REMOVED AND RELEASED TO A SHELTER OR BOARDING FACILITY. THE LANDLORD SHALL KEEP A RECORD OF THE NAME AND LOCATION OF THE SHELTER OR BOARDING FACILITY TO WHICH THE ANIMAL WAS RELEASED. IF THE LANDLORD DOES NOT IMMEDIATELY REMOVE AND RELEASE THE ABANDONED ANIMALS TO A SHELTER OR BOARDING FACILITY, THE LANDLORD SHALL PROVIDE REASONABLE CARE FOR THE ABANDONED ANIMALS FOR THE PERIOD PRESCRIBED BY SUBSECTION F OF THIS SECTION. IF THE LANDLORD IS UNABLE OR UNWILLING TO PROVIDE REASONABLE CARE TO THE ABANDONED ANIMALS, THE LANDLORD SHALL NOTIFY THE COUNTY ENFORCEMENT AGENT AS DEFINED IN SECTION 11-1001 OR AN ANIMAL CONTROL OFFICER AS PRESCRIBED IN SECTION 9-499.04 OF THE PRESENCE OF THE TENANT'S ABANDONED ANIMALS ON THE PROPERTY TO BE SEIZED PURSUANT TO SECTION 13-4281. THE LANDLORD IS NOT LIABLE FOR ANY ACTIONS TAKEN IN GOOD FAITH RELATED TO THE REMOVAL, RELEASE, SEIZURE OR CARE OF THE ABANDONED ANIMALS PURSUANT TO THIS SECTION.

~~E.~~ F. The landlord shall hold the tenant's personal property for a period of ~~ten~~ FOURTEEN CALENDAR days after the ~~landlord's declaration of abandonment~~ LANDLORD RETAKES POSSESSION OF THE DWELLING UNIT. The landlord shall use reasonable care in MOVING AND holding the tenant's personal property. If the landlord holds the property for this period and the tenant makes no reasonable effort to recover it, the landlord may DONATE THE PERSONAL PROPERTY TO A QUALIFYING CHARITABLE ORGANIZATION AS DEFINED IN SECTION 43-1088 OR OTHERWISE RECOGNIZED CHARITY OR sell the property. ~~,~~ IF THE LANDLORDS SELLS THE PROPERTY, THE LANDLORD SHALL retain the proceeds and apply them toward the tenant's outstanding rent or other costs ~~which~~ THAT are covered in the lease agreement or otherwise provided for in ~~title 33, chapter 10~~ THIS CHAPTER or title 12, chapter 8 and THAT have been incurred by the landlord, ~~due to the tenant's abandonment. Any~~ AND excess proceeds shall be mailed to the tenant at the tenant's last known address. A tenant does not have any right of access to that property until the actual removal and storage costs have been paid in full, except that the tenant may obtain clothing and the tools, apparatus and books of a trade or profession and any identification or financial documents, including all those related to the tenant's immigration status, employment status, public assistance or medical care. ~~If provided by a written rental agreement,~~ The landlord may destroy or otherwise dispose of some or all of the property if the landlord reasonably determines that the value of the property is so low that the cost of moving, storage and conducting a public sale exceeds the amount that would be realized from the sale. ANY TAX BENEFIT ASSOCIATED WITH THE DONATION OF THE PERSONAL PROPERTY BELONGS TO THE TENANT. A LANDLORD THAT COMPLIES WITH THIS SECTION IS NOT LIABLE FOR ANY LOSS TO THE TENANT OR ANY

THIRD PARTY THAT RESULTS FROM MOVING, STORING OR DONATING ANY PERSONAL PROPERTY LEFT IN THE DWELLING UNIT.

~~F.~~ G. For a period of twelve months after the sale, the landlord shall:

1. Keep adequate records of the outstanding and unpaid rent and the sale of the tenant's personal property.

2. Hold FOR THE BENEFIT OF THE TENANT any excess proceeds ~~which~~ THAT have been returned as undeliverable ~~for the benefit of the tenant~~.

~~G.~~ H. If the tenant notifies the landlord in writing on or before the date the landlord sells or otherwise disposes of the personal property that the tenant intends to remove the personal property from the dwelling unit or the place of safekeeping, the tenant has five days to reclaim the personal property. To reclaim the personal property the tenant must only pay ~~the landlord~~ for the ~~cost of~~ COSTS ASSOCIATED WITH removal and storage for the period the tenant's personal property ~~remained in the landlord's safekeeping~~ WAS STORED. EXCEPT AS PROVIDED IN SUBSECTIONS E OR I OF THIS SECTION FOR PERSONAL PROPERTY EXEMPT FROM STORAGE REQUIREMENTS, WITHIN FIVE DAYS AFTER A WRITTEN OFFER BY THE TENANT TO PAY THE APPLICABLE STORAGE OR REMOVAL COSTS THE LANDLORD MUST SURRENDER POSSESSION OF THE PERSONAL PROPERTY IN THE LANDLORD'S POSSESSION TO THE TENANT UPON THE TENANT'S TENDER OF PAYMENT. IF THE LANDLORD FAILS TO SURRENDER POSSESSION OF THE PERSONAL PROPERTY TO THE TENANT, THE TENANT MAY RECOVER THE POSSESSIONS OR AN AMOUNT EQUAL TO THE DAMAGES DETERMINED BY THE COURT IF THE LANDLORD HAS DESTROYED OR DISPOSED OF THE POSSESSIONS BEFORE THE FOURTEEN DAYS SPECIFIED IN THIS SECTION OR AFTER THE TENANT'S OFFER TO PAY.

I. NOTWITHSTANDING SUBSECTIONS D, E, F AND G OF THIS SECTION, IF THE TENANT RETURNS TO THE LANDLORD THE KEYS TO THE DWELLING UNIT AND THERE IS PERSONAL PROPERTY REMAINING IN THE DWELLING UNIT, THE LANDLORD MAY IMMEDIATELY REMOVE AND DISPOSE OF THE PERSONAL PROPERTY WITHOUT LIABILITY TO THE TENANT OR A THIRD PARTY UNLESS THE LANDLORD AND TENANT HAVE AGREED IN WRITING TO SOME OTHER TREATMENT OF THE PROPERTY.

~~H.~~ J. ~~In~~ FOR THE PURPOSES OF this section "abandonment" means either the absence of the tenant from the dwelling unit, without notice to the landlord for at least seven days, if rent for the dwelling unit is outstanding and unpaid for ten days and there is no reasonable evidence other than the presence of the tenant's personal property that the tenant is occupying the residence or the absence of the tenant for at least five days, if the rent for the dwelling unit is outstanding and unpaid for five days and none of the tenant's personal property is in the dwelling unit.

APPROVED BY THE GOVERNOR APRIL 3, 2018.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 3, 2018.

# Arizona Commission on Access to Justice

| Meeting Date: | Type of Action Requested: | Subject: |
|---|---|---|
| May 23, 2018 | ☐ Formal action or request<br>☒ Information only<br>☐ Other | Update on Rule Petitions |

From: Julie Graber, AOC staff

Presenters: (Same)

Discussion: The presenter will update the commission on the following rule petitions:

- R-18-0020 – Subsidized housing pleading requirements and disclosure requirements
- R-17-0020 – To adopt rules of small claims procedure in justice courts.
- R-18-0004 – To allow non-lawyers to represent certain types of small business entities in court

Recommended motion: None.

Lawrence F. Winthrop
Arizona Commission on Access to Justice
1501 W. Washington St., Suite 410
Phoenix, AZ 85007

**IN THE SUPREME COURT**

**STATE OF ARIZONA**

| | |
|---|---|
| In the Matter of: | SUPREME COURT NO. R-18-0020 |
| PETITION TO AMEND RULES 5(a) AND (b), AND RULE 13(a) OF THE ARIZONA RULES OF PROCEDURE FOR EVICTION ACTIONS | COMMENT BY ARIZONA COMMISSION ON ACCESS TO JUSTICE |

**Introduction**

The Arizona Commission on Access to Justice (ACAJ) was established by Administrative Order 2014-83, pursuant to the Court's 5-year strategic agenda of "Advancing Justice Together: Courts and Communities." The order specifically directs the ACAJ, among other things, to make recommendations that provide meaningful access to the court system, particularly for those individuals representing themselves in eviction matters.

**The Need for Rule Changes**

The proposed Rule changes provide (1) that the landlord is required in the complaint to advise the court that the subject housing unit is a subsidized unit, and if so, to specifically allege what portion of the unpaid rent is the responsibility of the tenant (proposed Rule 5(b)(8)); and (2) that the court determine whether the rental is subsidized, and if so, determine whether there is unpaid rent that the tenant is obligated to pay as his/her portion of the rent. (proposed Rule 13(a)(5)).

Whether a tenant being sued for forcible detainer is living in subsidized housing is an important factor for the court's consideration in determining whether and to what extent, if at all, a tenant is in default as to his or her portion of the total rent allegedly owed for the premises. The proposed Rule change is critical because, under the existing Rule, the judges are not in some instances being advised whether the property is subsidized. Without requiring that information, the court may inadvertently and illegally evict a tenant who is not in default.

The ramifications of a tenant being evicted from subsidized housing are significant, and likely permanent in nature, particularly as it relates to that tenant's ability to obtain alternative housing and continue to participate in a subsidized

housing program, all as detailed in the original petition (see p. 7, lines 6-18). This information is clearly within the knowledge and control of the landlord, and does not require any additional information or impose any additional legal expense on the landlord to be included in the complaint for possession and damages.

This issue, and the subject Rule petition, has been discussed at length in the Commission's work group dedicated to limited jurisdiction court issues. Members of that work group include justices of the peace (who primarily deal with residential landlord-tenant and eviction issues), court administrators, attorneys representing landlords, and legal services attorneys who periodically are involved in representing tenants who qualify for civil legal aid in Arizona. All members generally agree that whether the subject premises are part of a subsidized housing program is an important and relevant piece of information, and that the FED complaint should indicate whether the subject property is subsidized housing.

There were some divergent views on the exact language to be utilized in the proposed subsections. The Commission voted to advise the Court of its overall support for the proposed rule change, and to advise the Court in this comment of alternative suggestions offered with respect to these two proposed new subsections.

**Proposed Rule 5 (b)(8)**

The proposed language for Rule 5 (b)(8) requires the complaint to "State whether or not the rental is a subsidized housing unit …" The judicial members of our workgroup propose that the pleading shouldn't have to say what it is not; it just needs to state if it is a subsidized rental, and they respectfully suggest such designation be identified in bolded font.

In light of the importance of the issue, however, other members of the workgroup urge that the complaint contain the basic question: "Is the property subsidized? ___ Yes ___No." The landlord would then check the appropriate space and the information would be provided to the judge. Utilizing this approach eliminates uncertainty, and provides the judge with the critical information that is needed.

**Rule 13 (a)(5)**

The judicial members of the work group also noted that proposed Rule 13 (a)(5) change indicates that the judge must "determine whether the rental is subsidized." They are unclear whether the intent of the proposed new language is that the judge must make a specific finding in each individual case that either "This case does involve

a subsidized rental," or that "This case does not involve subsidized housing." Some judges are concerned that specifically making and documenting such a finding would be burdensome and inefficient, particularly in light of already-lengthy dockets. Those judges propose that the operative language should just be the following proposed sentence: "If the court determines the rent is subsidized …"

Other workgroup members note that current Rule 13(a) sets out important items the judge is to review that are vital in determining whether a landlord should be awarded possession or not. For example, the current Rule requires the court determine if service was proper, whether proper notice was provided, whether a right to cure, where applicable, was provided, and if the facts alleged support the landlord's right to possession. As the Rule currently exists, the inquiry as to whether the subject property is subsidized – a fact that may be just as critical in determining whether the landlord is entitled to possession -- is not listed. These members believe there is an important safeguard in requiring the court to specifically make the determination as to whether the subject property is subsidized or not.

**Conclusion**

The Commission strongly believes that adopting changes to address the issue of subsidized housing will ensure due process and serve as an important safeguard to

prevent eviction where a tenant in a subsidized housing unit is current in his or her portion of the rent. Accordingly, the Commission urges the Arizona Supreme Court to adopt appropriate changes to Rules 5(a) and 13(b) to the Rules of Procedure for Eviction Actions.

RESPECTFULLY SUBMITTED this 4th day of May, 2018.

_____

Lawrence F. Winthrop
Chair, Arizona Commission on Access to Justice

# Arizona Commission on Access to Justice

| Meeting Date: | Type of Action Requested: | Subject: |
|---|---|---|
| May 23, 2018 | ☐ Formal action or request<br><br>☒ Information only<br><br>☐ Other | Update on the Public Information and Messaging Workgroup |

From: Rick DeBruhl, State Bar of Arizona, and Heather Murphy, AOC Director of Communications

Presenters: (Same)

Discussion: The workgroup met on April 4, 2018. The presenters will discuss the workgroup's strategic planning focus.

- The workgroup is working on building a repository of podcasts facilitated by a Supreme Court Justice. Until now, topics have included adoptions, protective orders, and veterans court. The podcasts will reside on AZCourtHelp.org and azcourts.gov. A podcast will be played for members.
- AOC staff is in the process of redesigning the Self-Service Center in English and in Spanish on azcourts.gov, which will be presented to the commission.

Recommended motion: None.

# Arizona Commission on Access to Justice

| Meeting Date: | Type of Action Requested: | Subject: |
|---|---|---|
| May 23, 2018 | ☐ Formal action or request<br><br>☒ Information only<br><br>☐ Other | Update on the AZCourtHelp.org website |

From: Dr. Kevin Ruegg, Arizona Bar Foundation, and Theresa Barrett, manager of AOC's Court Programs Unit

Presenters: (Same)

Discussion: Dr. Ruegg will inform the members about the Google Analytics and demonstrate the website's new features. Ms. Barrett will update regarding marketing efforts.

Recommended motion: Informational only.




**Google Analytic Results**

| *Month* | *Sessions* | *Users* | *Page views* |
|---|---|---|---|
| ***January 2017 – March 31, 2018*** | **92,053** | **74,480** | **284,156** |
| *January 2018* | 11,773 | 10,107 | 32,017 |
| *February 2018* | 11,437 | 9,879 | 29,510 |
| *March 2018* | 15,558 | 13,237 | 39,259 |

**Devices Used**

| *Month* | *Desktop* | *Cell Phone* | *Tablet* |
|---|---|---|---|
| *Jan 2017-March 2018* | 35,924 (48.33%) | 34,276 (46.11%) | 4,129 (5.56%) |

**Acquisition of Users**

| *Month* | *Organic Search* | *Referral* | *Direct* | *Google Ad* | *Social Media* |
|---|---|---|---|---|---|
| *Jan 2017- Mar 2018* | 37,357 | 21,274 | 13,458 | 1,941 | 1,896 |

*Note: Google Ad and Social Media push is only from ~last 3 months*

**Top 10 Arizona Cities**

| *Jan 2017 – March 2018* |
|---|
| Phoenix – **19,122** |
| Tucson – **64,785** |
| Mesa – **2,287** |
| Scottsdale – **1,560** |
| Tempe – **1,502** |
| Chandler – **1,164** |
| Gilbert – **1,162** |
| Glendale – **1,110** |
| Flagstaff - **778** |
| Peoria - **655** |

## Top 10 Pages - *After Home Page*

| *January '17 – March '18* |
|---|
| Maricopa County Court Records |
| Self-Help Resources |
| Court Case Finder |
| Pima County Court Records |
| FAQ- Criminal Charges or Complaints |
| Browse by Topic |
| Find My Court |
| Live Chat |
| FAQ and More |
| Courthouse Calendars |

## Top 10 Referrals

| *(205 referring sites)* |
|---|
| AZLawHelp.org – **8,678** |
| AZCourts.gov – **5,650** |
| courts.yavapai.us – **1,099** |
| Superiorcourt.maricopa.gov- **576** |
| chandleraz.gov – **487** |
| sc.pima.gov – **441** |
| co.apache.az.us – **406** |
| Mohavecourts.com - **396** |
| coconino.az.gov – **378** |
| navajocountyaz.gov – **362** |

# Arizona Commission on Access to Justice

| Meeting Date: | Type of Action Requested: | Subject: |
|---|---|---|
| May 23, 2018 | ☐ Formal action or request<br>☒ Information only<br>☐ Other | Report from the Judicial and Attorney Engagement Workgroup |

From: Dr. Kevin Ruegg, Arizona Bar Foundation, and Kevin Groman, In-House Counsel Pro Bono Commission

Presenters: (Same)

Discussion: The workgroup met on May 1, 2018.

Dr. Ruegg will discuss the workgroup's strategic planning focus, including engaging public lawyers, engaging law firms, and judicial engagement. She will present the letter signed by Chief Justice Scott Bales that was distributed to top Arizona law firms with survey questions regarding their *pro bono* practice, and she will review the survey responses.

Mr. Groman will update members on the In-House Counsel *Pro Bono* Commission and status of outreach to private law firms regarding the creation of a *pro bono* network.

Recommended motion: None.

# Arizona Commission on Access to Justice

| Meeting Date: | Type of Action Requested: | Subject: |
|---|---|---|
| May 23, 2018 | ☐ Formal action or request<br>☒ Information only<br>☐ Other | Report from the Inter-Governmental Collaboration Workgroup |

From: Judge Lawrence F. Winthrop, chair

Presenters: (Same)

Discussion: Judge Winthrop will discuss the workgroup's strategic planning focus and review the presentation that was made to the Governor's Office's Re-Entry Workgroup regarding the impact of civil legal aid for vulnerable populations.

Recommended motion: None.

**Presentation to Governor's Re-Entry Workgroup**

March 29, 2018

## Introduction

We are here today on behalf of the Arizona Commission on Access to Justice, a state-wide group, appointed by the Chief Justice, focusing on improving meaningful access to our court system and civil justice in Arizona. In that regard, we have launched an inter-governmental initiative with the Executive Branch entitled "Justice in Government." Arizona is one of a select number of states chosen to participate in this type of project. Some of the reasons Arizona was chosen for this project include its 20-year history of the Arizona Domestic Violence Legal Assistance Project, a very successful collaboration between the judiciary, the Bar Foundation and legal aid agencies and the Department of Economic Security, and the most recent successful partnership between the Foundation and the civil legal aid agencies in Arizona and the Arizona Attorney General's office concerning assisting victims of foreclosure in Arizona. In each of these projects, we have worked closely with the Executive Branch and the applicable state agencies, and have leveraged specific, existing federal funding to provide legal aid for vulnerable populations in Arizona.

Thank you for this opportunity to share some thoughts and to offer our assistance concerning your work on Re-Entry issues.

## Re-entry as a Focus

Governor Ducey has already demonstrated his commitment to assisting our citizens trying to find employment and facing the barrier that any form of prior criminal record creates, no matter how minor or attenuated, and his commitment to assisting those Arizonans leaving prison and trying to effectively transition back into society. A criminal history is a significant barrier to not only finding employment, but also in having access to safe housing. Achieving meaningful employment is also critical to reducing recidivism and enhancing public safety.

We strongly believe that the availability of civil legal aid services is critical to the success of not only the Second Chance Centers planned for Arizona's prisons, but also the ability of any Arizonan with any type of criminal history to successfully find employment, to be self-sufficient and to support their family, and to be a productive taxpayer in this State. These efforts can also assist statewide economic growth by reducing worker shortages in key industries.

[Similarly, civil legal aid could be among the most effective services offered at Arizona's 47 Arizona@Work offices.]

Effective allocation of limited resources is always a challenge. As you consider those recommendations, we want to emphasize that, while the state may invest a lot of funds and resources into helping people transition, please do not overlook the impact of legal assistance. As we will detail in a moment, for many, this service will be *the most* transformational, no matter *what* other services they get.

[REFER TO THE HANDOUT AND THE STUDIES THAT SHOW THE EFFECTIVENESS OF LEGAL AID]

In the Governor's recent "Second Chance" Executive Order, he referenced the fact that an estimated 1.5 million Arizona adults have arrests or convictions on their records. These may often reflect old and often minor, victimless offenses. Nevertheless, this history stands as a significant barrier to even being considered, let alone hired, for pending job vacancies. We know that if large numbers of Arizonans can't get a job, they can't meet their financial needs, and this frustrates the Governor's twin policy goals of growing the economy and helping people with records secure employment.

Employment barriers not only exacerbate recidivism and the need for increased public safety costs, they also increase the government's cost of providing families with emergency food, shelter and medical care.

Governor Ducey identified worker shortages in several industries, including construction and trucking, but these and other prospective employers are missing out on a huge pool of potentially well-qualified employees, which frustrates filling these unmet hiring needs. And, ironically, some studies have shown that, by comparison, people with criminal records can be *more* productive employees.

As importantly, successful employment is one of the most significant indicators of success in decreasing recidivism, helping families become self-sufficient and increasing public safety. Supporting that effort, and giving job applicants the potential to seek to set aside a past conviction advances, rather than frustrates, these legitimate government policies. In short, strengthening "second chance" opportunities for these individuals not only fulfills the presumptive rehabilitation promise of our justice system, but also helps employers fill worker shortages and expand growth in our economy.

## How Can Legal Aid Assist?

While Arizona does not have expungement, it does allow for setting aside past convictions for qualified individuals. Even where that opportunity is not immediately available, there are any number of ways that lawyers can help mitigate the impact of a criminal record and remove employment barriers. These can include removing errors or duplications in a rap sheet; helping a client reinstate a suspended or revoked driver's license; removing barriers to applying for an occupational license; helping modify child support orders consistent with the client's ability to pay, and thus eliminating a prospective employer's need to implement wage garnishment; and negotiating the payment of outstanding court fees and fines, and other financial obligations.

For the last two years, Community Legal Services and its volunteer lawyers have been offering community-based clinics to Arizona residents to educate them about set-asides and dealing with barriers to employment and housing created by a prior criminal record. These types of services could easily be incorporated into those services offered at the Second Chance Centers and through the Arizona@Work offices.

However, with the current funding in place for the civil legal aid agencies, these organizations can't immediately staff or absorb referrals from the Second Chance Centers or the Arizona@Work offices. As you undoubtedly know, legal aid programs have to prioritize their limited resources for legal emergencies such as evictions, foreclosures and domestic violence. Additional funding is clearly needed to successfully implement this type of legal assistance.

Our interest concerning this issue is the same as yours: We want these Centers to be effective, and efficient, and to produce the best outcomes possible.

Our time here is limited, but we'd be pleased to work with you on a going-forward basis to identify existing federal funding that can be utilized to place legal aid lawyers in the Second Chance Centers to ensure that those Centers are as efficient and as effective as possible, and to deliver the best results possible for all those individuals the Governor, and all of us, hope have the benefit of a second chance at a job. [funding sources: Dept. of Labor Workforce Innovation and Opportunity Act; Medicaid funds for supportive services (with a waiver); Community Development Block Grants, Social Services Block Grants] At a minimum, with the appropriate level of funding, we can envision a legal aid lawyer and a paralegal being available at each of the Second Chance Centers.

There are also some additional policy tools that you might be interested in learning about; these are available from the Clean Slate Clearinghouse, which is a new Department of Justice and Department of Labor funded tool, created by the Council for State Governments.

I'd like to turn this over to Chris Groninger of the Bar Foundation, who can walk us through the handout and can highlight some specific stories of how legal aid here in Arizona has helped people with criminal records.

# CIVIL LEGAL AID IN ARIZONA HELPS WITH SUCCESSFUL RE-ENTRY & RECIDIVISM REDUCTION

## LEGAL AID HELPS...

- Remove barriers to employment and housing by setting aside or sealing criminal records, and by resolving or clearing credit issues
- Increase ability to obtain and keep higher paying positions by reinstating professional licensing, certification, or employment requirements such as fingerprint clearance
- Increase ability to obtain and keep employment by reinstating a revoked or suspended driver's license
- Untangle outstanding court debt and child support issues
- Secure fixes like reducing a felony to a misdemeanor and correcting errors in court or arrest records

## STUDIES SHOW LEGAL AID MAKES A DIFFERENCE...

To address whether record clearing improves employment outcomes for people with criminal records, law professor Jeffrey Selbin and economist Justice McCrary conducted a study of a random sample of several hundred clients who received legal aid from the Clean Slate Clinic at East Bay Community Law Center. They found that after legal interventions to clear a criminal record, average employment rates grew and average real earnings increased slightly during the first year of the intervention and rose rapidly thereafter.

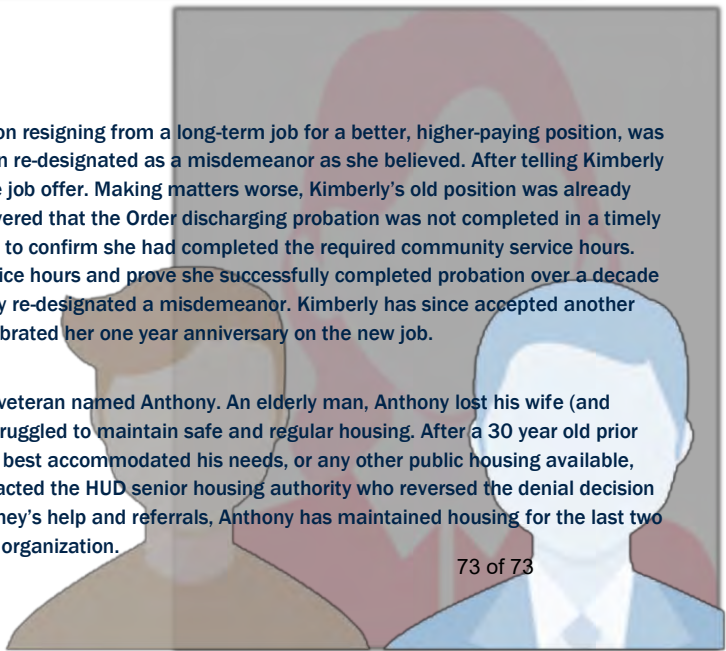
Preliminary findings from a University of Michigan study go further, showing that fewer than 4% of those with records cleared were rearrested within 5 years of having their records cleared.

Selbin, Jeffrey and McCrary, Justin and Epstein, Joshua, Unmarked? Criminal Record Clearing and Employment Outcomes (February 6, 2017). Journal of Criminal Law and Criminology, Vol. 108, No. 1, 2017. Available at SSRN: https://ssrn.com/abstract=2486867 or http://dx.doi.org/10.2139/ssrn.2486867

## LEGAL AID IN ARIZONA HELPED...

**Kimberly:** An Arizona legal aid organization recently helped Kimberly who, upon resigning from a long-term job for a better, higher-paying position, was shocked to learn that her Class 6, undesignated felony had not been re-designated as a misdemeanor as she believed. After telling Kimberly about the felony on her record, the employer promptly withdrew the job offer. Making matters worse, Kimberly's old position was already filled—leaving her jobless. Legal aid attorneys stepped in and discovered that the Order discharging probation was not completed in a timely manner due to "administrative oversight" and that her record failed to confirm she had completed the required community service hours. Legal aid attorneys helped Kimberly document her community service hours and prove she successfully completed probation over a decade earlier. The court was persuaded and Kimberly's felony was properly re-designated a misdemeanor. Kimberly has since accepted another higher paying position with a new company where she recently celebrated her one year anniversary on the new job.

**Anthony:** An Arizona legal aid organization recently represented a homeless veteran named Anthony. An elderly man, Anthony lost his wife (and caregiver) to cancer five years ago. Since her death, Anthony has struggled to maintain safe and regular housing. After a 30 year old prior conviction prevented him from securing HUD senior housing, which best accommodated his needs, or any other public housing available, Anthony reached out to legal aid. Anthony's legal aid attorney contacted the HUD senior housing authority who reversed the denial decision after receiving additional information. Thanks to the legal aid attorney's help and referrals, Anthony has maintained housing for the last two years and is volunteering regularly with a local veterans assistance organization.



**Arizona Commission on Access to Justice**
**Wednesday, May 23, 2018**
**10:00 a.m. to 2:00 p.m.**
**State Courts Building, 1501 W. Washington Street, Conf. Rm. 345A/B, Phoenix, AZ 85007**

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**Present:** Judge Lawrence Winthrop (chair), Kip Anderson, Judge Janet Barton, Judge Maria Elena Cruz, Anni Foster, Kevin Groman, Judge Anna Huberman, Maria Morlacci, John Phelps, Helen Purcell, Dr. Kevin Ruegg, Kathy Schaben *(proxy for Judge David Haws)*, Valerie Wyant, Anthony Young

**Telephonic:** Judge Thomas Berning, Pamela Bridge

**Absent/Excused:** Mike Baumstark, Judge Joseph C. Kreamer, Janet K. Regner

**Presenters/Guests:** Cathleen Cole, Chris Groninger, Cheryl Kulas, Roshon Parra, Lara Slifko, Cindy Trimble, Sara Tulane, David Withey

**Administrative Office of the Courts (AOC) Staff:** Theresa Barrett, Julie Graber, Kathy Sekardi

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- The Immigration Clinic at the University of Arizona celebrated incredible wins for their clients.

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- The American Bar Association (ABA) sponsored a two-day series of meetings with each state's congressional leaders. Several Arizona representatives, including members of the Commission, attended and met with Arizona's elected officials and/or their staff. One of the themes included educating leaders about the value of legal aid services for constituents. Additionally, congressional leaders were encouraged to urge the Department of Justice to reinstate the funding for education for detained undocumented individuals. That advocacy was successful, and the funding was restored.
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- Building relationships across Arizona is part of the work still to be done for the commission. One opportunity that will be further explored is with the O'Connor Institute, a non-profit based at Arizona State University Law School, which focuses on civic education and civic engagement.

**B. Arizona Judiciary Policy Against Employment Discrimination and Harassment**

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- Sex discrimination includes discrimination based on sexual orientation, gender identity, and transgender status.
- A definition of retaliation has been included.
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- Several elements must be included when implementing the policy, such as effective dissemination of the policy, accessible reporting system, keeping the information confidential to the extent possible, providing the investigation result, and protection from retaliation.
- Education opportunities need to be made available at the local court level and statewide.

**Member comments:**

- Several members commented that while it is good to have policies and resources in place, the emphasis must be placed on leadership and ongoing training in the workplace.

**C. Overview of Strategic Planning for the Next Strategic Agenda**

Cindy Trimble, AOC Executive Office, provided an overview of the strategic agenda's planning process and sought feedback from the commission on agenda items to include. The next strategic agenda will take effect on July 1, 2019.

**Member comments:**

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- Continue simplifying forms and instructions and provide fillable forms.
- Continue exploring Online Dispute Resolution software.
- Develop content for self-represented litigants in the form of videos, podcasts, and webpages.

**D. Report from the Self-Represented Litigants in Limited Jurisdiction Courts Workgroup**

Judge Anna Huberman discussed the workgroup's efforts on developing a series of *Legal Info Videos* for eviction actions. Eight scripts have been storyboarded and finalized. Staff is working on creating the videos. Male and female volunteers are needed for voiceovers in both English and Spanish. An example video entitled "What Landlords Need to Know Before Going to Court" was presented to the members. The commission discussed how to promote the videos.

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Julie Graber updated members on several pending rule petitions.

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Cathleen Cole, Arizona Foundation for Legal Services & Education, wrapped up the presentation with highlights of the site's new content and features. Find My Court webpages are being populated with the court's contact information, accepted methods of payment, parking and security information, language and disability access information, and forms from 68 court tours. The Like button has been updated so the user is prompted with a follow up question if he or she clicks "no," and the user can indicate if looking for a lawyer or for free legal advice.

**Member comments:**

- John Phelps inquired why the Like button does not link to Find a Lawyer on the State Bar's website. Dr. Ruegg explained that the feature establishes first if free legal services are needed, and if not, then refers them to the State Bar.

**I. Report from the Judicial and Attorney Engagement Workgroup**

Dr. Ruegg reported on the workgroup's efforts to engage public attorneys and judges. To engage law firms and identify *pro bono* participation, share *pro bono* policies, and determine if law firms are willing to discuss increasing their *pro bono* activities, a targeted letter signed by Chief Justice Bales was sent to 73 law firms with survey questions about their *pro bono* policies and areas of interest. To date, 47 percent of law firms responded to the survey, 32 percent reported having a formal *pro bono* policy, and 88 percent reported *pro bono* activities in their law firm. Kevin Groman reported on the progress of the In-House Counsel *Pro Bono* Commission to increase awareness of *pro bono* opportunities with efforts, such as Wills for Heroes, clinics, and the Florence project in which children are being represented by counsel in deportation cases. John Phelps discussed the State Bar of Arizona's Public Service Center, which went live on May 1, 2018, and matches potential clients to attorneys. While there are many people requesting free legal help, there are also a number of people with modest means who are willing to pay.

**J. Report from the Inter-Governmental Collaboration Workgroup**

Judge Winthrop discussed Arizona's ongoing participation in the Justice in Government Project that was an agenda item at the commission's last meeting. He reminded members that the project encourages the use of existing federal funding at the state level to provide civil legal aid services to individuals to remove obstacles to employment, escape domestic violence, and stabilize housing for needy families. He shared that interest convergence was identified between the commission's goals and the policy priorities of the Arizona Governor's Office that is being explored. Judge Winthrop reported on the presentation made in March to the Governor's Task Force on Reentry and Recidivism on removing obstacles for jobseekers who have criminal records. The workgroup will continue building on this cooperative platform.

## III. OTHER BUSINESS

**A. Good of the Order/Call to the Public**

None present.

**B. Next Meeting Date**

Wednesday, September 19, 2018
10:00 a.m. to 2:00 p.m.
State Courts Building, Room 119
1501 W. Washington Street
Phoenix, AZ 85007

Adjourned at 1:41 p.m.

PROMOTING ACCESS TO JUSTICE

# Arizona Commission on Access to Justice

## Meeting Agenda

November 14, 2018 - 10:00 a.m. to 2:00 p.m.
State Courts Building ♦ 1501 West Washington ♦ Conference Room 119A/B ♦ Phoenix, Arizona
ACAJ WEBPAGE

| TIME | AGENDA ITEM | PRESENTER |
|---|---|---|
| 10:00 a.m. | **Welcome and Opening Remarks**<br><br>**Approval of minutes from May 23, 2018**<br>☐ ***Formal Action/Request*** | *Judge Lawrence F. Winthrop, Chair* |
| 10:05 a.m. | **Chairperson's report** | *Judge Winthrop* |
| 10:15 a.m. | **Report on the Modest Means program** | *Lara Slifko, CRO, Arizona Foundation for Legal Services & Education* |
| 10:25 a.m. | **Arizona State Bar Public Service Center** | *Cheryl Kulas, Manager, Public Service Center* |
| 10:40 a.m. | **Report on Rule Petitions**<br>• **R-18-0020:** Subsidized housing pleading requirements and disclosure requirements<br>• **Pending filing:** Production of documents and information in eviction actions<br>☐ ***Formal Action/Request*** | *Julie Graber, AOC Staff* |
| 10:45 a.m. | **Report from the Self-Represented Litigants in Limited Jurisdiction Courts Workgroup** | *Judge Anna Huberman* |

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| | | |
|---|---|---|
| 11:00 a.m. | **Update on the Public Information and Messaging Workgroup** | *Julie Graber, AOC Staff* |
| 11:10 a.m. | **Report on the AZCourtHelp.org website** | *Dr. Kevin Ruegg*<br>*Cathleen Cole*<br>*Theresa Barrett, AOC* |
| 11:25 a.m. | **Report from the Judicial and Attorney Engagement Workgroup** | *Judge Joseph Kreamer*<br>*Kevin Groman*<br>*John Phelps* |
| 11:45 a.m. | **Lunch Break** | |
| 12:40 p.m. | **Report from the Inter-Governmental Collaboration Workgroup** | *Judge Winthrop*<br>*Chris Groninger, Arizona Foundation for Legal Services & Education* |
| 1:00 p.m. | **Presentation of the St. Vincent de Paul Legal Clinic** | *Ann-Marie Alameddin, St. Vincent de Paul* |
| 1:30 p.m. | **Presentation of the Tucson Family Advocacy Program (TFAP), a Medical Legal Partnership for Health** | *Anne Ryan, Esq., Jessie Pettit, M.D., Tucson Family Advocacy Program* |
| 1:55 p.m. | **Good of the Order / Call to the Public** | *Judge Winthrop* |
| 2:00 p.m. | **Adjournment** | |

**2019 Meeting Dates**
**February 13 ~ May 15 ~ November 13**

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Conference Room 119

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- John Phelps inquired why the Like button does not link to Find a Lawyer on the State Bar's website. Dr. Ruegg explained that the feature establishes first if free legal services are needed, and if not, then refers them to the State Bar.

**I. Report from the Judicial and Attorney Engagement Workgroup**

Dr. Ruegg reported on the workgroup's efforts to engage public attorneys and judges. To engage law firms and identify *pro bono* participation, share *pro bono* policies, and determine if law firms are willing to discuss increasing their *pro bono* activities, a targeted letter signed by Chief Justice Bales was sent to 73 law firms with survey questions about their *pro bono* policies and areas of interest. To date, 47 percent of law firms responded to the survey, 32 percent reported having a formal *pro bono* policy, and 88 percent reported *pro bono* activities in their law firm. Kevin Groman reported on the progress of the In-House Counsel *Pro Bono* Commission to increase awareness of *pro bono* opportunities with efforts, such as Wills for Heroes, clinics, and the Florence project in which children are being represented by counsel in deportation cases. John Phelps discussed the State Bar of Arizona's Public Service Center, which went live on May 1, 2018, and matches potential clients to attorneys. While there are many people requesting free legal help, there are also a number of people with modest means who are willing to pay.

**J. Report from the Inter-Governmental Collaboration Workgroup**

Judge Winthrop discussed Arizona's ongoing participation in the Justice in Government Project that was an agenda item at the commission's last meeting. He reminded members that the project encourages the use of existing federal funding at the state level to provide civil legal aid services to individuals to remove obstacles to employment, escape domestic violence, and stabilize housing for needy families. He shared that interest convergence was identified between the commission's goals and the policy priorities of the Arizona Governor's Office that is being explored. Judge Winthrop reported on the presentation made in March to the Governor's Task Force on Reentry and Recidivism on removing obstacles for jobseekers who have criminal records. The workgroup will continue building on this cooperative platform.

## III. OTHER BUSINESS

**A. Good of the Order/Call to the Public**

None present.

**B. Next Meeting Date**

Wednesday, September 19, 2018
10:00 a.m. to 2:00 p.m.
State Courts Building, Room 119
1501 W. Washington Street
Phoenix, AZ 85007

Adjourned at 1:41 p.m.

# Arizona Commission on Access to Justice

| Meeting Date: | Type of Action Requested: | Subject: |
|---|---|---|
| November 14, 2018 | ☐ Formal action or request<br>☒ Information only<br>☐ Other | Modest Means Project |

From: Lara Slifko, Chief Resource Officer, Arizona Foundation for Legal Services & Education

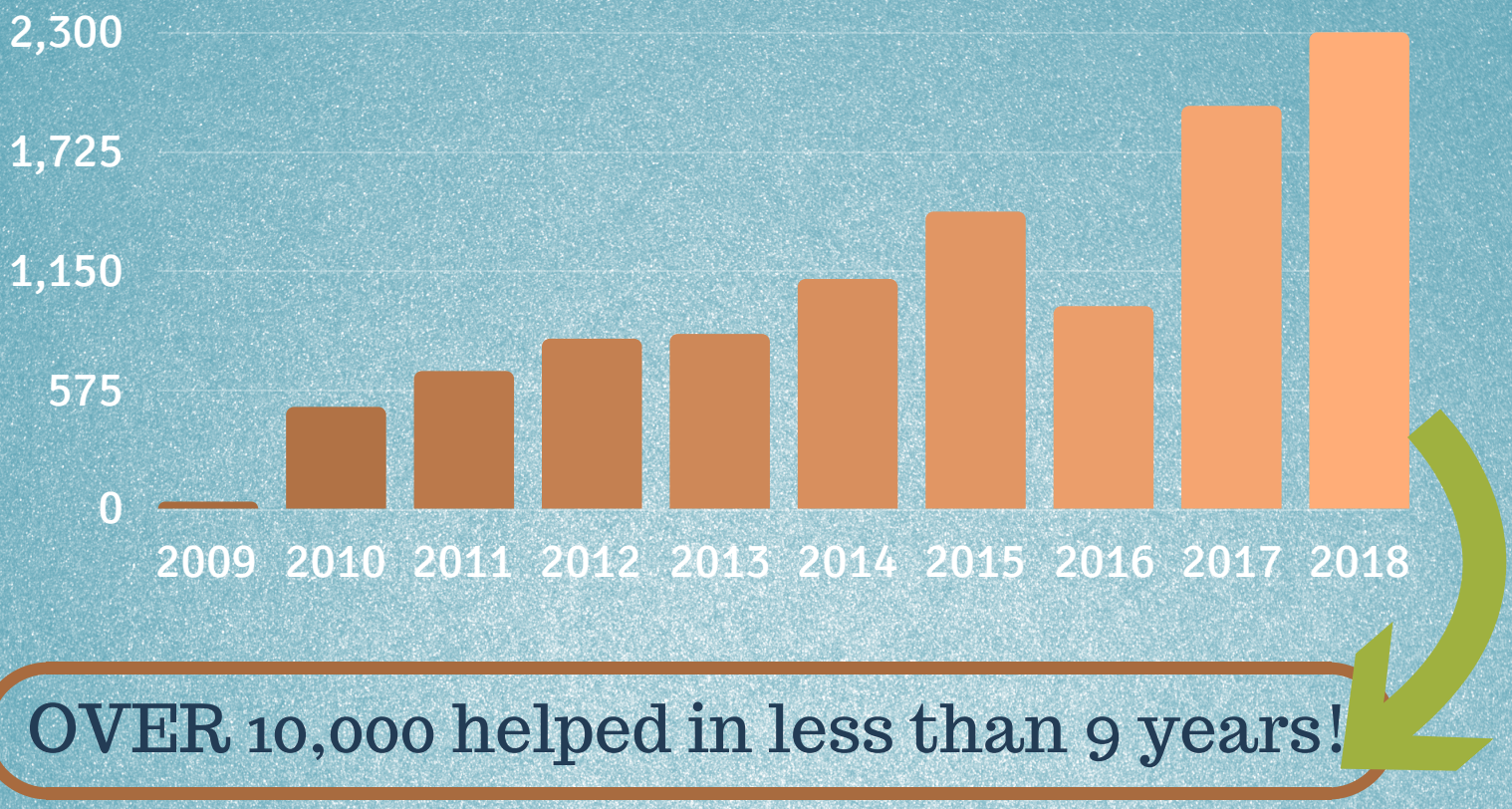
Presenters: Lara Slifko

Discussion: Overview of the Modest Means Project over the last 9 years.

Recommended motion: N/A

# MODEST MEANS PROJECT

## HELPING THE JUSTICE GAP




OVER 10,000 helped in less than 9 years!

157 Active Modest Means Attorneys
425 attorneys involved since 2009

*A2J Author started in 2013
*Call Center staff position eliminated in 2016
*Automated phone line established 3/2017

# Arizona Commission on Access to Justice

| Meeting Date: | Type of Action Requested: | Subject: |
|---|---|---|
| November 14, 2018 | ☐ Formal action or request<br>☒ Information only<br>☐ Other | Update on the Arizona State Bar Public Service Center |

From: Cheryl Kulas, Manager of the Public Service Center

Presenters: Cheryl Kulas

Discussion: An update will be given regarding the Public Service Center, including challenges since the opening, learning opportunities, and statistics.

Recommended motion: None.

# Arizona Commission on Access to Justice

| Meeting Date: | Type of Action Requested: | Subject: |
|---|---|---|
| November 14, 2018 | ☐ Formal action or request<br>☒ Information only<br>☐ Other | Update on Rule Petitions |

From: Julie Graber, AOC staff

Presenters: (Same)

Discussion: The presenter will update the commission on the following rule petitions:

- R-18-0020 – Subsidized housing pleading requirements and disclosure requirements
- Pending filing – Proposed petition will require landlords to serve relevant documents including the lease with the complaint and will continue to allow parties to request other relevant information.

Recommended motion: None.

SUPREME COURT OF ARIZONA

| | | |
|---|---|---|
| In the Matter of | ) | Arizona Supreme Court |
| | ) | No. R-18-0020 |
| PETITION TO AMEND THE RULES OF PROCEDURE FOR EVICTION ACTIONS | ) | |
| | ) | **FILED 8/28/2018** |

**ORDER**
**AMENDING RULES 5(b),5(c), AND 13(a) OF THE RULES OF PROCEDURE FOR EVICTION ACTIONS**

A petition having been filed proposing to amend Rules 5(b), 5(c), and 13(a) of the Rules of Procedure for Eviction Actions, and comments having been received, upon consideration,

**IT IS ORDERED** that Rules 5(b), 5(c), and 13(a) of the Rules of Procedure for Eviction Actions be amended in accordance with the attachment hereto, effective January 1, 2019.

DATED this 28th day of August, 2018.

_____/s/_____
SCOTT BALES
Chief Justice

TO:
Rule 28 Distribution
Lisa M Panahi
Hon. Lawrence F Winthrop
Hon. Gerald A Williams
Ellen S Katz
Scott E Williams
Melissa Parham
Scott Andrew Baluha

## ATTACHMENT[1]

## Rules of Procedure for Eviction Actions

### Rule 5. Summons and Complaint: Issuance, Content and Service of Process

**a.** [No change in text.]

**b. Complaint.** The complaint shall:

(1)-(7) [No change in text.]

(8) State that the action involves a subsidized rental property if the action involves a subsidized rental property.

(9) Current Rule 5(b)(8) renumbered as 5(b)(9).

**c. Complaint for Monetary Damages.** If the complaint seeks a money judgment for rent, late charges, or other fees, charges or damages permitted by law, the complaint shall also state:

(1)-(7) [No change in text.]

(8) If the rental property is a subsidized housing unit, the landlord must state the total amount of the rent per month, the tenant's portion of the monthly rent, and the total amount of the tenant's portion of the rent that the tenant owes.

**d.-f.** [No change in text.]

### Rule 13. Entry of Judgment and Relief Granted

**a. Items to Review.** Except for stipulated judgments entered pursuant to Rule 13(b)(4), in each eviction action the court shall:

(1)-(4) [No change in text.]

(5) If the court determines that the rental property is subsidized, determine whether there is unpaid rent that the tenant is obligated to pay as the tenant's portion of the rent.

**b.-g.** [No change in text.]

[1] Changes or additions in rule text are indicated by underscoring and deletions from text are indicated by strikeouts.

_____
_____
_____
(  )_____
Attorney for Plaintiff / Address / Phone / Email / Fax/ Bar Number

# Justice Courts, Arizona

CASE NUMBER: _____

| | |
|---|---|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| (  )_____ | (  )_____ |
| Plaintiff(s) Name / Address / Phone | Defendant(s) Name / Address / Phone |

## COMPLAINT (*Eviction Action*)

[ ] Immediate [ ] Residential

**YOUR LANDLORD IS SUING TO HAVE YOU EVICTED, PLEASE READ CAREFULLY THE ALLEGATIONS AGAINST YOU LISTED BELOW.**

1. This court has jurisdiction to hear this case. The rental is within this court's judicial precinct and is located at: _____. The business name of the property, if any, is _____.
2. The Plaintiff wants you evicted and wants possession of the rental because of the reasons in section 5.
3. Any required written notice was served on the Defendant on _____and was served:
   [ ] by hand, or [ ] by certified mail.
4. A copy of the notice that was served is attached.
5. The Plaintiff is the owner or is authorized by law to file this case on behalf of the owner.
6. This case involves [ ] a subsidized rental property.

The Plaintiff claims (check and complete all that apply):

**[ ] SUBSIDIZED HOUSING:** Total rent per month is $_____.
Tenant's portion of rent per month is $_____.
Total amount of tenant's portion owed by tenant is $ _____.

**[ ] RENT OWED:** The Defendant has failed to pay the rent owed. The rent is unpaid since _____. There is a prior unpaid balance of $_____. The rental agreement requires rent of $_____ to be paid on the _____ day of each [ ] month [ ] week. The rental agreement provides for late fees calculated in the following manner: _____.

**Notice:** If you are a residential tenant and the only claim your landlord makes is that you have not paid your rent, you may contact your landlord or your landlord's attorney and offer to pay all of the rent due, plus any reasonable late fees, court costs and attorney's fees. If you pay these amounts before a judgment is entered, then this case will be dismissed and your rental agreement will be reinstated and will continue.

**[ ] NON-COMPLIANCE:** After getting a notice, the Defendant failed to do the following:

_____

_____

_____ on this date: _____, at the following location _____.

**[ ] IRREPARABLE BREACH:** The Defendant has committed a material and irreparable breach. Specifically, on this date_____, at the following location _____ the Defendant did the following: _____

_____

_____

_____.

**[ ] OTHER ALLEGATIONS OF NON-COMPLIANCE ON WHICH EVICTION ACTION IS BASED:** State the date or dates notice of non-compliance was given and attach a copy of each notice, if applicable, to this Complaint:

_____

_____

_____.

7. As of the filing date the Defendant owes the following:

| | | |
|---|---|---|
| Rent (current and prior months accrued since filing) totaling. . | $_____ | |
| Late fees: (if any in written agreement). . . . . | $_____ | |
| Other fees or charges (as authorized by law). . . . . | $_____ | (Add more lines for specific fees and charges) |
| Concessions (if any in written agreement) . . . . . | $_____ | |
| Reimbursable court costs . . . . . | $_____ | |
| Attorney's fees (if allowed) . . . . . | $_____ | |
| Other allegations of damages (as authorized by law). . . . . | $_____ | |
| **Total Amount Requested . . . . . .** | **$_____** | |

8. The Plaintiff requests a Judgment for the amounts owed above and for possession of the rental.

9. WRIT OF RESTITUTION: The Plaintiff requests the court issue a Writ of Restitution returning the rental to the Plaintiff's possession 5 calendar days after the date the Judgment. If the eviction is for the material and irreparable breach explained above, return of possession is requested 12 to 24 hours from the time of the Judgment.

10. By signing this complaint, I am agreeing that the allegations written are true and correct to the best of my knowledge.

Date: _____ _____

Plaintiff / Attorney for Plaintiff

# Justice Courts, Arizona

CASE NUMBER: _____

| | |
|---|---|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| (  ) _____ | (  ) _____ |
| Plaintiff(s)/Attorney Name / Address / Phone | Defendant(s)/ Attorney Name / Address / Phone |

**JUDGMENT (Eviction Action)  [ ] Amended**

This matter was heard by the Court on this date: _____

Plaintiff appeared [ ] in person [ ] by counsel [ ] failed to appear
Defendant appeared [ ] in person [ ] by counsel [ ] failed to appear

[ ] This matter involves a subsidized rental property.

If required by law, Defendant [ ] was [ ] was not given proper notice and the opportunity to cure.

Defendant [ ] was [ ] was not properly served with the Summons and a copy of the complaint at least two (2) days prior to Court date.

If a partial rent payment was accepted, [ ] a non-waiver was produced [ ] a non-waiver was NOT produced.

Defendant pleads [ ] NOT GUILTY/NOT RESPONSIBLE
[ ] GUILTY/RESPONSIBLE

[ ] Defendant has filed a counterclaim.

[ ] Parties have stipulated.

**WARNING!**

1. **The plaintiff's representative is not a court employee.**
2. **By signing below, you are consenting to the terms of a judgment against you and the plaintiff will now be able to evict you.**
3. **You may have your wages garnished and the judgment may appear on your credit report.**
4. **You may lose your right to subsidized housing.**
5. **You may NOT stay at the property, even if the amount of the judgment is paid in full, unless you get the agreement in writing or get a new written rental agreement.**

_____
Defendant's signature

Defendant was found [ ] GUILTY/RESPONSIBLE [ ] NOT GUILTY/NOT RESPONSIBLE of:
[ ] RENT OWED [ ] NON-COMPLIANCE [ ] IRREPARABLE BREACH
[ ] OTHER

[ ] IT IS HEREBY ORDERED granting judgment on the complaint to [ ] Plaintiff [ ] Defendant
[ ] IT IS FURTHER ORDERED granting judgment on the counterclaim to [ ] Plaintiff [ ] Defendant
[ ] IT IS FURTHER ORDERED granting possession of the rental (dwelling unit or premises) to
[ ] Plaintiff [ ] Defendant

[ ] **IT IS FURTHER ORDERED granting monetary judgment to:**

| [ ] Plaintiff(s) | [ ] Defendant(s) |
|---|---|
| 1. $_____Unpaid rent | 1. $_____Court cost |
| 2. $_____Late fees | 2. $_____Damages |
| 3. $_____Other fees or charges | 3. $_____Attorney fees |
| (Add more lines for specific fees and charges) | 4. $_____Other:_____ |
| 4. $_____Rental concessions | |
| 5. $_____Court cost | |
| 6. $_____Other damages | |
| 7. $_____Attorney fees | |
| $_____**TOTAL** | $_____**TOTAL** |
| [ ] Plaintiff awarded nothing | [ ] Defendant awarded nothing |

With interest at the rate of_____% per annum from the date of judgment until paid in full.

[ ] A Writ of Restitution (order to vacate rental) shall be granted upon request of the Plaintiff on:

Date: _____ Time: _____
*(No sooner than five (5) calendar days after date of judgment)*

[ ] The court finds that the defendant has committed a material and irreparable breach, in violation of A.R.S. § 33-1368A, and a Writ of Restitution (order to vacate rental) shall be granted on:

Date: _____ Time: _____
*(No sooner than 12 - 24 hours from the time of judgment)*

**WARNING:** After service of the Writ of Restitution (order to vacate rental), if you remain on or return unlawfully to the rental, you will have committed criminal trespass in the third degree.

**IT IS ORDERED** dismissing this case [ ] with prejudice [ ] without prejudice

Date: _____ Signature: _____
Justice of the Peace

I CERTIFY that I delivered/mailed a copy of this document to:
[ ] Plaintiff at the above address [ ] Plaintiff's attorney [ ] Defendant at the above address
[ ] Defendant's attorney

Date: _____ By: _____
Clerk

SUBMITTED BY THE STATE BAR OF ARIZONA'S LEGAL SERVICES ADVISORY PANEL

IN THE SUPREME COURT

STATE OF ARIZONA

| | |
|---|---|
| PETITION TO AMEND THE RULES OF PROCEDURE FOR EVICTION ACTIONS | Supreme Court No. R_____<br>_____<br>**Petition to Amend the Rules of Procedure for Eviction Actions** |

Pursuant to Rule 28 of the Rules of the Supreme Court, the Legal Services Advisory Panel of the State Bar respectfully petitions this Court to amend Rule 5(d) of the Rules of Procedure for Eviction Actions to require that the landlord serve with the complaint specified relevant rental documents and to amend Rule 10(a) of the Rules to reflect that certain documents were served with the complaint and that other documents and information may be requested by the party prior to any hearing. Currently, only the notice to vacate is required to be attached to the complaint. The lease and other relevant rental documents the eviction is based on are not required to be served with the complaint. Finally, the requirement to produce relevant documents and information is only triggered by a request from one of the parties. In support of this Petition, the Legal Services Advisory Panel of the State Bar states the following:

## I. Statement of Interest

The Legal Services Advisory Panel previously was the Legal Services Committee of the State Bar, a standing committee of the State Bar. The Legal Services Advisory panel was established in 2017. The composition of the Advisory Panel is the same as the Committee and continues to be comprised of a broad cross-section of attorneys, including staff from legal services programs. The Advisory Panel's mission, like the Committee before it, is to work on access to justice issues for low-income Arizonans. The Committee historically had an interest in the rights of tenants in eviction cases and the Advisory Panel intends to continue that work.

## II. Background and Purpose of the Proposed Rule Amendment

### A. Current Rules

In 2008, the Arizona Supreme Court approved the Rules of Procedure for Eviction Actions. Rule 5(d) concerns the complaint and summons: Rule 5(b)(7) requires:

> b. **Complaint.** The complaint shall:
>
> ***
>
> (7) State the specific reason for the eviction; that the defendant was served a proper notice to vacate; if applicable; the date the notice was served; and what manner of service was used. A copy of the notice shall be attached as an exhibit to the complaint. (emphasis in original).

Rule 10 concerns disclosures. Rule 10(a) provides that:

> **Disclosure**
>
> a. Upon request, a party shall provide to the other party: 1) a copy of any lease agreement; 2) a list of witnesses and exhibits; 3) if nonpayment of rent is an issue, an accounting of charges and payments for the preceding six months; and 4) copies of any documents the party intends to introduce as an exhibit at trial. (emphasis in original).

When the complaint is filed, the rules only require that the landlord attach a copy of the notice to vacate. The parties typically have entered into a written lease that includes significant contractual terms such as the rate of the rent, any late fees and any concessions provided to the tenant as well as rules of conduct, but the rules do not require the landlord attach a copy of the lease to the complaint.

Although the Arizona Residential Landlord and Tenant Act requires a landlord to give the tenant a copy of the lease, A.R.S. § 33-1321(C), legal services report that many tenants do not receive a copy of their lease. Thus, the tenants may not know the significant terms of their rental lease. If a tenant served with eviction papers does not have a copy of their lease and wants to find out more about the landlord's claims, the tenant first must be aware of the disclosure rule and make the request. The average

unrepresented tenant is unaware of the Rules of Procedure for Eviction Actions and does not make the disclosure request. As a result, the unrepresented tenant is left without the lease information and other rental documents and is at a severe disadvantage defending against the eviction.

### B. Landlords Are Not Required to Disclose Relevant Documents to the Disadvantage of Tenants

The time frames to act in eviction actions are very short. The initial hearing or trial can take place in as few as two days after the service of the eviction complaint. A.R.S. § 12-1175 (C). Thus, there is limited time for tenants served with an eviction complaint to consult with an attorney and prepare for a hearing or trial. In the overwhelming majority of cases, the eviction judgment is entered on the return date. A.R.S. § 12-1178 (A). Unless agreed upon by the parties, continuances are usually for three days. *See generally* A.R.S. § 12-1177 (C). An appeal must be filed within five calendar days of the judgment. A.R.S. § 12-1179 (A).

Leagal services estimates that less than one tenth of one percent of tenants who come to court are represented. Most if not all the unrepresented tenants are unfamiliar with the Rules of Procedure for Eviction Actions and do not know they can request that the landlord produce relevant documents prior to a hearing or trial. Legal services staff report that the Justice Courts do not tell the unrepresented tenant about Rule 10(a), even when a case is continued for a trial. Thus, typically the tenants appear in court without the relevant documents needed to prove their defense.

In contrast to the unrepresented tenant, the vast majority of landlords are represented by attorneys. The timing of the filing of the eviction action is totally in the control of the landlord. Prior to filing the eviction, the landlord has the time to collect evidence, talk to witnesses and gather the relevant documents. This relevant information and documents should have been sent to the landlord's attorney who has the obligation to "exercise due diligence to ensure that the action has a good faith basis . . . ensure their pleadings are accurate and well-grounded in fact and law." Rule 4 of the Rules of

Procedure for Eviction Actions.

In a non-payment of rent case, landlords typically sue for rent owed, late fees, a credit for any concessions, and other fees that are set out in the lease. Currently, landlords do not attach the lease to the complaint or produce the lease in court and enter it into evidence. The lease is the contractual basis for the eviction, and to prevail on a breach of contract claim, the landlord needs to prove the existence and terms of that contact, and any damages. *See Goodman v. Physical Res. Eng'g, Inc.,* 229 Ariz. 25, 28, 270 P.3d 852, 855 (Ariz. App. 2011); *Graham v. Asbury*, 112 Ariz. 184, 185, 540 P.2d 656, 657 (Ariz. 1975). In addition, most landlords keep some accounting of the rent collected, fees assessed, and amounts owed. In eviction cases, the dates of rental payments and the amounts may be at issue. Here as well, the accounting is not typically introduced into evidence nor is a copy given to the tenant although it may be referred to at the hearing by the landlord or the landlord's attorney.

For non-payment of rent cases, the tenant usually arrives to court unaware of the terms of their lease agreement or the exact amount of rent owed. The court, also unaware of these key details, often relies on the landlords' attorneys to verbally confirm the terms of the lease and the amount owed at the time of hearing. As an example, although landlords rely on the terms of the lease and accounting ledgers, the courts often accept "standard avowals" from the landlord attorneys concerning this information without requiring introduction of these business records into evidence.

For cases where the landlord claims a violation of the lease, a tenant without the lease or other documents the landlord intends to introduce at the hearing, also is at a severe disadvantage.

Thus, for the typical eviction case, on one side is an unrepresented tenant with no documents and is at risk of losing their home, while on the other side is a represented landlord who has all the relevant documents, but those documents are not introduced into evidence at court or given to the tenant.

Thus, eviction proceedings usually end with tenants losing possession of their

rental and having a monetary judgment and a writ of restitution entered against them. This proposed rule attempts to level this unbalanced presentation of evidence and ensure that all parties and the court know what is at issue and are prepared for the eviction hearing.

## III. Proposed Rule Amendment

**Rule 5. Summons and Complaint: Issuance, Content and Services of Process**

***

**d. Additional Requirements for Complaint:**

***

(3) A COPY OF ANY LEASE AND ANY ADDENDUMS SHALL BE SERVED WITH THE COMPLAINT.

(4) IF THE ACTION IS BASED ON NON-PAYMENT OF RENT, A COPY OF THE ACCOUNTING OF CHARGES AND PAYMENTS FOR THE PRECEDING SIX MONTHS SHALL BE SERVED WITH THE COMPLAINT.

(5) IF THE COMPLAINT SEEKS A JUDGMENT FOR REASONS OTHER THAN THE NON-PAYMENT OF RENT, THE DOCUMENTS AND EXHIBITS THE PLAINTIFF INTENDS TO PRESENT OR RELY UPON AT THE TRIAL SHALL BE SERVED WITH THE COMPLAINT.

e. If PLAINTIFF FAILS TO COMPLY WITH SUBSECTIONS D (3)-(5) OF THIS RULE WITHOUT GOOD CAUSE, THE COURT MAY TAKE APPROPRIATE ACTION, INCLUDING GRANTING A CONTINUANCE, EXCLUDING EVIDENCE NOT DISCLOSED, AND SANCTIONING PLAINTIFF UP TO AND INCLUDING DISMISSAL OF THE COMPLAINT.

RE- LETTER SUBSEQUENT PARAGRAPHS.

**Rule 10(a)**

Rule 10(a) provides that:

a. Upon request, a party shall provide to the other party

PRIOR TO THE HEARING OR TRIAL: 1) a ~~copy of any lease agreement; 2) a~~ list of witnesses; ~~and exhibits~~; ~~2) 3) if nonpayment of rent is an issue, an accounting of charges and payments for the preceding six months;~~ and ~~4)~~ 2) copies of any documents the party intends to introduce as an exhibit at trial, THAT WERE NOT ATTACHED TO THE COMPLAINT AS REQUIRED BY RULE 5(d).

## IV. Explanation of Need for Proposed Rule

### A. Evictions Cases Are Important

Tenants have a property interest in their residences. *Greene v. Lindsey*, 456 U. S. 444, 451-52 (1982). *See also Foundation Development Corporation v. Loehmann's*, 163 Ariz. 438, 442, 788 P.2d 1189, 1193 (Ariz. 1990) (recognizing common law right of tenant's property interest in rental). Eviction proceedings that deprive tenants of that property must comply with the due process requirements of the 14th Amendment to the United States Constitution. *Greene*, 456 U.S. at 455. Moreover, tenants also have a property interest in their subsidized housing benefits because they are in the class of persons the program is intended to benefit. *Ressler v. Pierce*, 692 F.2d 1212, 1215, (9th Cir. 1982).

The plight of low-income tenants and the effect evictions have on their lives has received national attention. In 2015, Mathew Desmond, a professor at Harvard published the book, *Evicted: Poverty and Profit in the American City.* Professor Desmond lived in a low-income residential section of Milwaukee for almost two years and observed the intersection of low-income tenants and eviction actions. He documented the resulting loss of shelter and the increased social and economic instability.

Others also have written about this problem. It is well recognized that for low-income persons, an eviction action may threaten their only means of shelter. *See, e.g.*, Laurie Ball Cooper, *Legal Responses to the Crisis of Forces Moves Illustrated in Evicted*, 126 Yale L.J. Forum 448 (2017); Allyson E. Gold, *No Home for Justice: How Eviction Perpetuates Health Inequality Among Low-Income and Minority Tenants*, 24 Geo. J on Poverty L. & Pol'y 59 (2016); Chester Hartman and David Robinson, *Evictions: The*

*Hidden Housing Problem,* Housing Policy Debate, Vol. 14, Issue 4 (2003*)* found at http://content.knowledgeplex.org/kp2/ cache/kp/10950.pdf. Indeed, commentators have noted that, "any tenant who has been named in an eviction proceeding is effectively barred from obtaining safe, decent, and healthy housing." Gold, *supra* at 60. The effects of an eviction are far reaching and the inability to find other housing on short notice can lead to the disruption of children's education, interruption of employment, dislocation from health care providers, loss of personal belongings, and homelessness. In addition, the eviction process may lead to monetary judgments and writs of restitution. These monetary judgments and writs make it difficult for tenants to secure new rental housing. Thus, the consequences of eviction cases make these actions very important to tenants and especially low-income tenants, who often lack back-up resources. The result of an eviction may be that a family is living in a car. The consequences for tenants evicted from subsidized housing may mean that the tenant can never again live in subsidized housing.

Eviction cases have also gained local media attention. In the last year the *Arizona Republic* published an entire series of articles about eviction cases in Maricopa County. Alden Woods, *The New Housing Crisis*, Arizona Republic, (April 24, 2017 at 7:02 AM, Updated Sept. 19, 2018 at 9:38 AM), https://www.azcentral.com/story/news/local/phoenix-best-reads/2017/04/24/arizona-cannot-afford-rent-cannot-afford-move-new-housingcrisis/99546080/. The series documented the severe impact the eviction process has on tenants, who often are low-income tenants of color.

### B. Tenants Should be Provided the Relevant Documents

Legal services attorneys identified the issue of tenants not having relevant documents, not knowing they can request relevant documents and landlords failing to provide the relevant documents to the court or the tenant at hearings. If a tenant does not have a copy of his or her lease, an attorney or advocate will have a hard time evaluating the case and providing advice. Thus, even a tenant who may have a defense or counterclaim may not have the documents necessary to present their claims. This lack of

relevant documents severely hinders the unrepresented tenant in a system where they are already at a disadvantage.

As explained in this petition, for all evictions, the lease would be required ot be served with the complaint. For non-payment of rent cases, landlords would be required to also serve with the complaint the accounting records currently produced only upon request. In addition, for cases where non-payment of rent is not the issue, the landlord would be required to serve with the complaint the documents and exhibits the landlord intends to present or rely upon at the hearing that currently are only produced upon request.

The goal of this petition is to ensure that tenants have the documents, exhibits and and information they need to evaluate their cases and present their defenses so that they are not evicted when they have defenses.

**Conclusion**

The Legal Services Advisory Panel submits this petition because of the importance of this issue. The proposed rules will require landlords to serve relevant documents including the lease with the complaint and will continue to allow parties to request other relevant information. These changes in the rules will ensure that unrepresented and represented tenants in an eviction action can prepare for a hearing with relevant documents and are not improperly evicted from their rentals. For all these reasons, Petitioner requests the Court approve this petition.

Respectfully submitted this ___ day of October 2018.

# Arizona Commission on Access to Justice

| Meeting Date: | Type of Action Requested: | Subject: |
|---|---|---|
| November 14, 2018 | ☐ Formal action or request<br>☒ Information only<br>☐ Other | Report from the Self-Represented Litigants in Limited Jurisdiction Courts Workgroup |

From: Judge Anna Huberman, Chair

Presenters: (Same)

Discussion: The workgroup met on August 2, 2018, and September 13, 2018. The presenter will discuss strategic planning focus:

- The workgroup is focusing on developing eviction-related videos that will be available on AZCourts.gov and AZCourtHelp.org.
- Nine videos are being finalized in English and in Spanish using Vyond. The workgroup approved ten additional storyboards, which have been translated.
- Legal Info Sheets have been revised and new ones created regarding landlord's obligations, tenant's obligations, Rules of Procedure for Eviction Actions, and Arizona Residential Landlord Tenant Act.

Recommended motion: None.

# Arizona Commission on Access to Justice

| Meeting Date: | Type of Action Requested: | Subject: |
|---|---|---|
| November 14, 2018 | ☐ Formal action or request<br>☒ Information only<br>☐ Other | Update on the Public Information and Messaging Workgroup |

From: Julie Graber, AOC staff

Presenters: (Same)

Discussion: The workgroup met on August 16, 2018.

- The redesign of the Self-Service Center in English and in Spanish on AZCourts.gov has been completed.
- The Legal Info Hub will launch on December 1, 2018, on AZCourts.gov as the main repository for Legal Info Podcasts, Legal Info Videos, Legal Info Sheets, and Legal Info FAQs. The Spanish version of the Legal Info Hub will also launch on December 1, 2018.

Recommended motion: None.

# Arizona Commission on Access to Justice

| Meeting Date: | Type of Action Requested: | Subject: |
|---|---|---|
| November 14, 2018 | ☐ Formal action or request<br>☒ Information only<br>☐ Other | Update on the AZCourtHelp.org website |

From: Dr. Kevin Ruegg, Executive Director, Arizona Foundation for Legal Services & Education, Cathleen Cole, Content Manager, Arizona Foundation for Legal Services & Education, and Theresa Barrett, Manager, Court Programs Unit, AOC

Presenters: Dr. Kevin Ruegg, Cathleen Cole, and Theresa Barrett

Discussion will include updated statistics from Google Analytic reports for AZCourtHelp.org website, and enhancements and improvements to the website since the last report.

Theresa Barrett will inform the members of the new Law Library Conference Room at Superior Court in Yuma County and the new Spanish Legal Talks taking place in the Coconino County Law Library.

Recommended motion: None.

AZCourtHelp.org

# AZCourtHelp.org Quarterly Newsletter

Edition 1 — October 31, 2018

## Collaborative Content Update




### Tackling Traffic

With the assistance of the volunteer Traffic Content Development Committee, AZCourtHelp.org has added over 100 pages of information, for Arizona and out-of-state residents, in the areas of civil and criminal traffic violations. With their regular input and assistance, there are now:

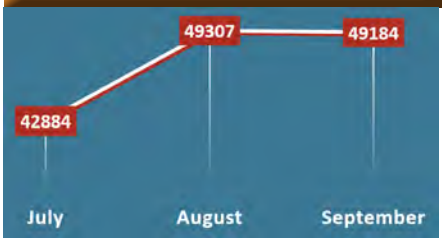
- Pages dedicated to courthouse online payment options and fee schedules
- Frequently Asked Question sections include the areas of defensive driving school, paying a citation, and traffic hearings
- A video to assist people with understanding and reading their citations is embedded, in order to reduce the amount of phone calls received by clerks
- A glossary of commonly used traffic terms and acronyms

Traffic content went live on September 14, 2018. In the 16-day span remaining in September, 330 users accessed the traffic pages. As of today, usage is already up by 26% for the first two weeks of October. We look forward to monitoring the use of the traffic pages and comments on the traffic pages to see what we can do to further assist users.

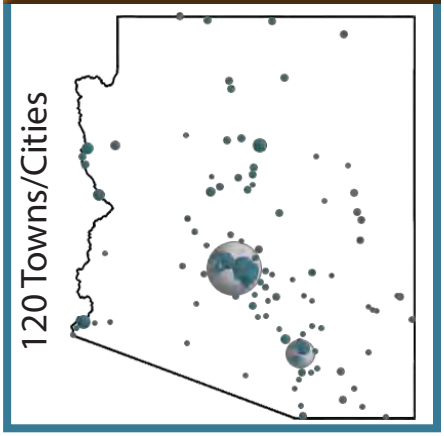
Thank you to the volunteers who assisted with gathering and providing content for AZCourtHelp.org!

https://azcourthelp.org/browse-by-topic/traffic-violations

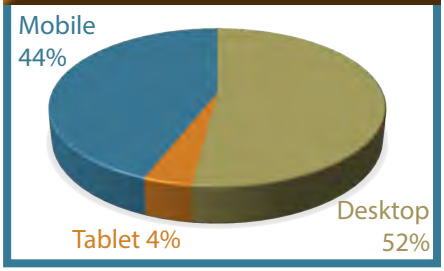
## Pageviews




## Statewide Usage




## Device Usage




## 44,689 New Users

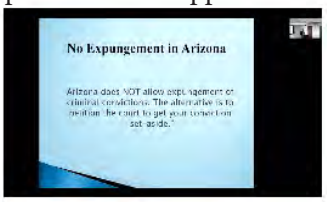
## Coming to a Browser Near You




AZCourtHelp.org is a constantly expanding website. To complement the AZCourtHelp.org Podcast series, court-related information regarding adoption is being compiled. This will include information on familial and non-familial adoption processes, petitions, and more.

## Expanding the Video Library

### Criminal Set Aside Legal Clinic




The Yuma County Law Library hosts regular legal clinics for the public. With support of the AOC, they have begun recording these clinics. One of their most popular clinics, Criminal Set Aside, has now been published on AZCourtHelp. We look forward to hosting more video resources in the near future.

**11.1.17-10.31.18**

**Google Analytic Results**

| *Month* | *Sessions* | *Users* | *New Users* | *Pg/Session* | *Page views* | *Avg. Time On* |
|---|---|---|---|---|---|---|
| *11/1/17-10/31/18* | 179,505 | 148,879 | 148,184 | 2.56 | 459,021 | 00:02:34 |

**Devices Used**

| *Month* | *Desktop* | *Cell Phone* | *Tablet* |
|---|---|---|---|
| *11/1/17-10/31/18* | 72,887 (48.99%) | 68,790 (46.24%) | 7,090 (4.77%) |

**Acquisition of Users**

| *Month* | *Organic Search* | *Referral* | *Direct* | *Google Ad* | *Social Media* |
|---|---|---|---|---|---|
| *11/1/17-10/31/18* | 88,452 | 32,372 | 20,024 | 8,671 | 2,109 |

**Top 10 Referrals**

| *11/1/17 – 10/31/18* | *11/1/17-4/30/18* | *5/1/18-10/31/18* |
|---|---|---|
| AZCourts.gov – **10,971** | AZLawHelp.org – **5,419** | AZCourts.gov – **8,295** |
| AZLawHelp.org – **10,637** | AZCourts.gov – **2,648** | AZLawHelp.org – **5,192** |
| courts.Yavapai.us – **2,109** | courts.Yavapai.us – **1,024** | courts.Yavapai.us – **1,097** |
| sc.Pima.gov – **886** | sc.Pima.gov – **467** | sc.Pima.gov – **425** |
| Chandleraz.gov – **682** | Chandleraz.gov – **398** | jp.Pima.gov – **369** |
| jp.Pima.gov – **663** | superiorcourt.Maricopa.gov - **318** | co.Apache.az.us – **298** |
| co.Apache.az.us – **570** | jp.Pima.gov – **301** | Chandleraz.gov – **285** |
| Navajocountyaz.gov – **524** | co.Apache.az.us – **275** | Mohavecourts.com – **282** |
| superiorcourt.Maricopa.gov – **505** | Navajocountyaz.gov – **251** | Navajocountyaz.gov – **278** |
| Maranaaz.gov – **447** | Maranaaz.gov - **227** | Coconino.az.gov – **236** |

**11/1/17-4/30/18: 161 sites have a link to AZCourtHelp.org**
**5/1/18-10/31/18: 202 sites have a link to AZCourtHelp.org**

**To contribute content or provide feedback - Cathleen.Cole@azflse.org**

AZCourtHelp.org

**Top 10 Cities Using AZCourtHelp**

| *Lifespan* | *11/1/17-4/30/18* | *5/1/18-10/31/18* |
|---|---|---|
| Phoenix- **36,550** | Phoenix- **2,813** | Phoenix- **22,548** |
| Tucson- **9,466** | Tucson- **624** | Tucson- **5,716** |
| Los Angeles- **5,301** | Los Angeles- **386** | Los Angeles- **3,325** |
| Mesa- **4,580** | Mesa- **352** | Mesa- **2,872** |
| Scottsdale- **3,231** | Scottsdale- **230** | Scottsdale- **2,041** |
| Tempe- **2,893** | Flagstaff- **226** | Tempe- **1,788** |
| Chandler- **2,358** | Tempe- **205** | Chandler- **1,483** |
| Gilbert- **2,247** | Kingman- **191** | La Victoria- **1,473** |
| Glendale- **2,163** | Chandler- **143** | Bogota- **1,349** |
| Bogota – **1,990** | Gilbert- **130** | Glendale- **1,341** |

**Top 10 Languages Used on the Site (*Lifetime*)**

| *Language* | *#Users* |
|---|---|
| Spanish | 14,972 |
| French | 334 |
| Portuguese | 167 |
| Korean | 158 |
| Chinese | 117 |
| Italian | 64 |
| German | 49 |
| Japanese | 32 |
| Russian | 29 |
| Dutch | 17 |

| *Languages Translated* |
|---|
| Arabic, Azerbaijani, Burmese, Catalan, Chinese, Croatian, Czech, Danish, Dutch, Estonian, Faeroese, Farsi, Filipino, Finnish, French, German, Greek, Hebrew, Hungarian, Indonesian, Irish, Italian, Japanese, Korean, Latin, Latvian, Lithuanian, Malaysian, Marathi, Norwegian, Persian, Polish, Portuguese, Romanian, Russian, Serbian, Slovenian, Spanish, Swedish, Turkish, Ukrainian, Vietnamese |

**Top 10 Pages Viewed on the Site**

| *#Views* | *Unique Views* | *Page Name/Link* |
|---|---|---|
| 27,471 | 24,159 | Maricopa Court Records |
| 18,651 | 14,184 | Forms |
| 16,995 | 14,398 | Pima Court Records |
| 14,089 | 13,551 | Qué significa días calendario? |
| 12,133 | 11,122 | What happens at a pretrial conference? |
| 11,379 | 7,662 | Find My Court |
| 10,337 | 8,119 | Self-Help Resources |
| 7,001 | 5,178 | Live Chat |
| 6,572 | 5,921 | Courthouse Calendars |
| 5,652 | 4,176 | Divorce Information |

**To contribute content or provide feedback - Cathleen.Cole@azflse.org**

# Arizona Commission on Access to Justice

| Meeting Date: | Type of Action Requested: | Subject: |
|---|---|---|
| November 14, 2018 | ☐ Formal action or request<br>☒ Information only<br>☐ Other | Report from the Judicial and Attorney Engagement Workgroup |

From: Judge Joseph Kreamer, John Phelps, and Kevin Groman, In-House Counsel Pro Bono Commission

Presenters: (Same)

Discussion: The workgroup met on October 5, 2018.

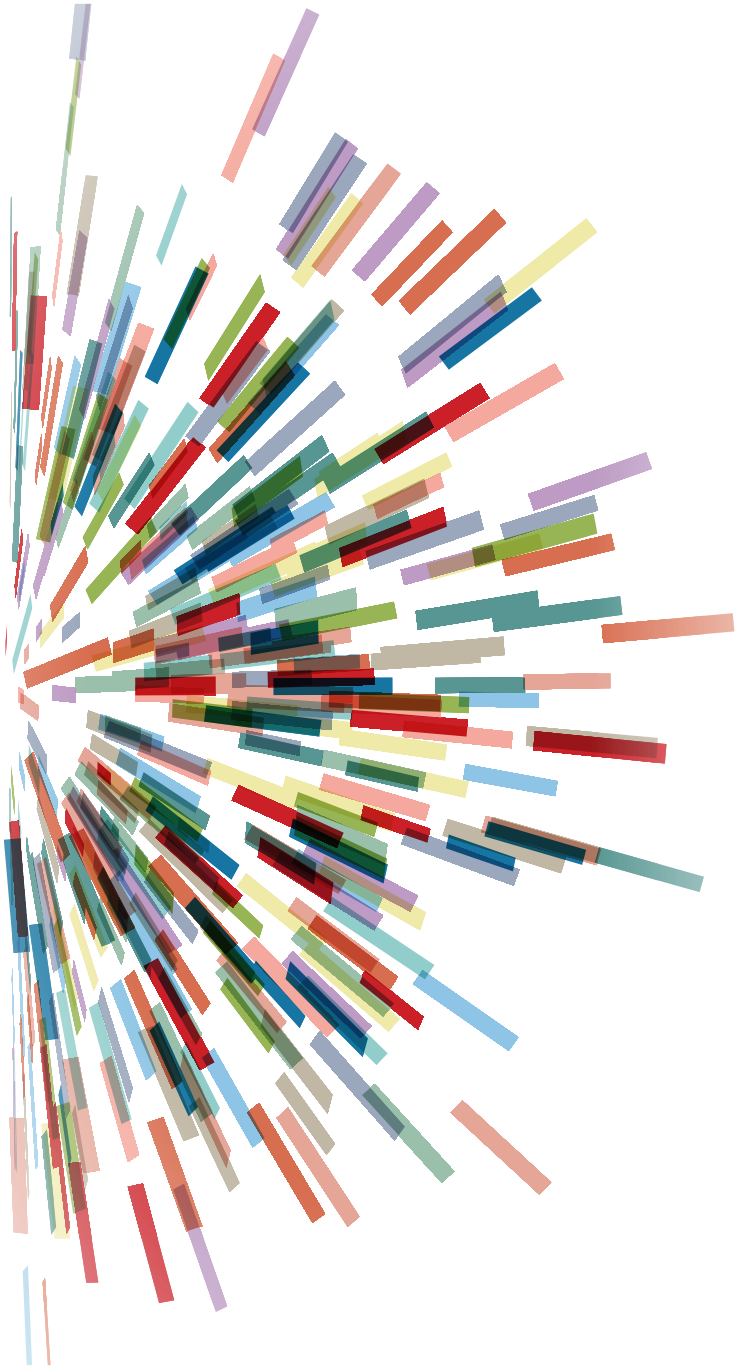
Presenters will discuss the workgroup's strategic planning focus, including engaging public lawyers, engaging law firms, and judicial engagement.

John Phelps will discuss unbundling legal services.

Recommended motion: None.

# BETTER ACCESS THROUGH UNBUNDLING

## FROM IDEATION TO IMPLEMENTATION



IAALS
INSTITUTE for the ADVANCEMENT of the AMERICAN LEGAL SYSTEM
UNIVERSITY of DENVER

SJI
State Justice Institute

# Better Access through Unbundling: from Ideation to Implementation

Natalie Anne Knowlton
Director, Special Projects
Conference Reporter

**August 2018**

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**IAALS—Institute for the Advancement of the American Legal System**

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http://iaals.du.edu

IAALS, the Institute for the Advancement of the American Legal System, is a national, independent research center at the University of Denver dedicated to facilitating continuous improvement and advancing excellence in the American legal system. We are a "think tank" that goes one step further—we are practical and solution-oriented. Our mission is to forge innovative and practical solutions to problems within the American legal system. By leveraging a unique blend of empirical and legal research, innovative solutions, broad-based collaboration, communications, and ongoing measurement in strategically selected, high-impact areas, IAALS is empowering others with the knowledge, models, and will to advance a more accessible, efficient, and accountable American legal system.

| | |
|---|---|
| Rebecca Love Kourlis | Executive Director |
| Natalie Anne Knowlton | Director, Special Projects |
| Michael Houlberg | Manager |
| Janet Drobinske | Legal Assistant |

# Introduction

Reform-minded lawyers recognize that the legal profession cannot maintain a monopoly on services it does not provide. High percentages of litigants in civil and family cases are navigating court processes without attorneys.[1] Although the factors that drive people to self-represent are multifaceted, the cost of legal representation is a major component. Many segments of the legal profession are responding to this growing reality by focusing on new, client-centric models of legal services delivery. Among these, the unbundled legal services model (also referred to as limited scope representation, limited assistance representation, or discrete task representation) is increasing in visibility.

In October 2017, IAALS, the Institute for the Advancement of the American Legal System at the University of Denver, partnered with the American Bar Association (ABA) Standing Committee on the Delivery of Legal Services to host a national two-day conference on advancing implementation of the unbundled legal services model. Better Access through Unbundling: From Ideation to Implementation brought together diverse stakeholders from 26 states, Washington D.C., and Canada to share perspectives, exchange best practices, and chart paths for deeper collaboration.[2]

Conference attendees heard from leaders in the field of unbundled legal services. Diverse panels and presentations queued important issues, challenges, and opportunities:

- What do self-represented litigants want? What are lawyers providing?
- How do we reach law students, newly admitted lawyers, and even seasoned practitioners to provide a broader platform of unbundled legal services?
- What do we know about the practitioner's experience with unbundled legal services? Are certain client populations better served than others?

[1] Colorado, for example, reports a 75 percent self-representation rate in FY2017, for both the filing and the responding party in domestic relations cases. OFFICE OF THE STATE COURT ADMIN., COLO. JUD. BRANCH, CASES AND PARTIES WITHOUT ATTORNEY REPRESENTATION IN CIVIL CASES: FY 2017, *available at* https://www.courts.state.co.us/Administration/Unit.cfm?Unit=annrep (follow "2017" hyperlink under "Cases/Parties without Attorney Representation" header). A recent study of civil cases from Virginia courts shows that in only 6 percent of Adult Juvenile and Domestic Relations Court cases and in 38 percent of circuit court cases are both parties represented. JOHN E. WHITFIELD, SUMMARY REPORT ON THE FINDINGS OF THE VIRGINIA SELF-REPRESENTED LITIGANT STUDY 2 (Apr. 4, 2018), *available at* http://brls.org/wp-content/uploads/2018/03/Summary-Report-on-the-Findings-of-the-Virginia-Self-Represented-Litigant-Study-rev.pdf.

[2] This was the second partnership of this kind. In 2015, IAALS, the ABA Standing Committee on the Delivery of Legal Services, and the ABA Legal Access Job Corps Task Force co-hosted a two-day conference: *Client-Centric Legal Services: Getting from Here to There*. The conference focused on developing new models of legal services delivery that enhance engagement, redefine and create value, and pivot practitioners into 21st Century problem solvers. *Client-Centric Legal Services: Getting from Here to There*, AM. BAR ASS'N, https://www.americanbar.org/groups/delivery_legal_services/events_training/client_centric_legal_services.html (last visited June 14, 2018).

- How do we engage a wide variety of collaborative stakeholders in the pursuit of advancing unbundling and take advantage of the nexuses they create?
- How are technology solutions creating new dynamics around the implementation of unbundled legal services?
- How can rulemakers and other decision makers create policy and other guidance to clearly chart the course toward implementation and provide direction on risk assessment?
- What are best practices with respect to implementing and advancing unbundling?
- How can we engage the bench in order to legitimize the unbundled services model?
- What are practitioners' concerns with unbundling and how can we diffuse them?

The robust agenda of panel presentations and interactive working group discussions yielded a number of actionable tools, techniques, and strategies applicable to stakeholders around the country. The following report provides a summary of these recommendations and solutions.

Section I first offers a brief overview of the unbundled legal services model, its history, and its structure. Sections II and III outline the high-impact discussion points that emerged from conversations about stakeholder-specific strategies for advancing unbundling and solutions for deeper collaboration across stakeholder groups, respectively. Section IV details elements of the strategic plans developed by representatives from states in varying stages of adoption and implementation. Section V concludes with hyperlinks to Conference resources.

This report and the solutions detailed therein are designed to add to the strengthening foundation for widespread implementation of unbundled legal services.

## I. The Unbundled Model: Reframing Legal Services Delivery Around Client Needs

Lawyers have traditionally provided personal legal services under a "full service model," whereby the lawyer performs any and all tasks that are necessary to meet the needs of the case, from beginning to end. In an unbundled legal services model, both client and attorney agree, usually at the onset of the engagement, to limit the scope of services that the attorney delivers. The attorney performs discrete tasks—for example, researching issues, drafting documents, or representing the party in court—and the client completes all other portions of the case.

Unbundling is not a new concept. The foundations for the model have existed for some time, influenced by Forrest "Woody" Mosten's work in the early 1990s involving disintermediation trends in the real estate market. The ABA Standing Committee on the Delivery

of Legal Services encouraged a broad conversation about the unbundled model beginning in 1992,[3] after studying the growing rate of self-representation among divorce litigants.[4] While many factors play a role in driving litigant decisions to self-represent, it is well understood that the inability to afford an attorney is a primary consideration.[5] Unbundling offers affordable legal services options to clients whose alternative is often no legal representation at all.[6]

Some legal and court communities are turning to advancing unbundled legal services as a viable model for bridging the access to justice gap. However, there are considerable differences among the states in how an unbundled practice is implemented and can be structured within the context of each state's rules and regulations.[7] And even in states with no remaining rule-based obstacles to unbundling, too few practitioners are embracing the model and few consumers are aware of it. Overcoming the implementation gap remains a challenge.

## II. Stakeholder-Specific Recommendations for Advancing Unbundling

Conference attendees came from diverse backgrounds and included researchers, private practitioners, legal aid attorneys, bar association representatives, legal educators, regulators, judges, court staff, self-help staff, legal technology providers, and others. Through panel and

[3] In 2002, the ABA Model Rules of Professional Conduct were amended to authorize the practice, so while it may have been ethically questionable at some point in the past, it no longer is today in the vast majority of states that have adopted the ABA Model Rule provision governing limited scope representation. Subsequently, the Committee sponsored a resolution that passed the ABA House of Delegates in 2013 to encourage stakeholders to advance unbundling.

[4] JOHN GOERDT, NAT'L CTR. FOR STATE COURTS, DIVORCE COURTS: CASE MANAGEMENT, CASE CHARACTERISTICS, AND THE PACE OF LITIGATION IN 16 URBAN JURISDICTIONS (1992), *available at* https://cdm16501.contentdm.oclc.org/digital/collection/famct/id/4 (finding that in domestic relations cases in studied courts, 53 percent of the cases involved one party without an attorney and 18 percent involved two parties without an attorney).

[5] *See*, *e.g.*, NATALIE ANNE KNOWLTON, LOGAN CORNETT, CORINA D. GERETY & JANET L. DROBINSKE, INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., CASES WITHOUT COUNSEL: RESEARCH ON EXPERIENCES OF SELF-REPRESENTATION IN U.S. FAMILY COURT (2016), *available at* http://iaals.du.edu/honoring-families/publications/cases-without-counsel-research-experiences-self-representation-us [hereinafter CWC RESEARCH] (exploring the various factors that drive litigant decisions to self-represent, including perceptions that attorney involvement will affect the ongoing relationship of the parties and litigant desires to have a voice in the process).

[6] Moreover, it provides a model to serve a subset of family law litigants who can afford some level of legal representation but who do not want the full representation model because they assume (whether justified or not) that engaging a full service lawyer will make their case more adversarial.

[7] A 2014 Standing Committee paper outlines state approaches to implementing and regulating limited scope representation. AM. BAR ASS'N STANDING COMM. ON THE DELIVERY OF LEGAL SERV., AN ANALYSIS OF RULES THAT ENABLE LAWYERS TO SERVE SELF-REPRESENTED LITIGANTS (Aug. 2014), *available at* https://www.americanbar.org/content/dam/aba/administrative/delivery_legal_services/ls_del_unbundling_white_paper_2014.authcheckdam.pdf. Additionally, the ABA's Unbundling Resource Center provides state cases, rules, ethics options, and other materials related to unbundling. *Unbundling Resource Center*, AM. BAR ASS'N, https://www.americanbar.org/groups/delivery_legal_services/resources.html (last visited June 14, 2018).

working group discussions, these participants outlined stakeholder-specific strategies for rulemakers and regulatory bodies, court systems and court service providers, attorneys and professional organizations, and law schools and legal educators.

## A. Rulemakers & Regulatory Bodies

Clear rules of professional responsibility and civil procedure are the foundation for encouraging the adoption and spread of unbundling as a viable legal services delivery model. There are many existing models for rules amendments, including Rules 1.2(c) and 6.5 of the ABA Model Rules of Professional Conduct, which a number of states have implemented in identical or similar form.[8] But even the best rules do not guarantee that lawyers will offer unbundled services or that clients will know to ask for unbundled services. Rulemakers and regulatory bodies can help bridge this implementation gap in a number of ways to support practitioners who want to offer clients unbundled services:

- Develop additional explanatory comments and materials to accompany ethics rules, with guidance for practitioners.
- Support the creation and widespread dissemination of toolkits and other instructional materials for attorneys on how to unbundle services ethically and efficiently.
- Publish articles and other official statements authored by regulators and bar leaders, to provide reassurance that the unbundled model is both authorized and encouraged.
- Educate malpractice carriers on the unbundled model and assure them that this model is not only authorized by professional regulatory authorities but encouraged.
- Encourage carriers to explicitly include unbundled legal services as a covered activity in their informational and advertising materials.

Conference attendees also had a broader candid discussion on the interplay between the respective roles of those charged with regulating the profession and those pushing the boundaries of what is permissible under existing regulations. A foundational suggestion emerging from these discussions is that regulators, and the legal profession more broadly, should rethink common perceptions of what it means to protect clients. Because there is an ongoing access to justice crisis where clients need attorneys but cannot afford them, regulators cannot focus solely on how to protect clients from harm when they do hire an attorney and ignore the harm that occurs when a client who needs an attorney cannot hire one.

[8] MODEL RULES OF PROF'L CONDUCT r. 1.2(c), r. 6.5 (AM. BAR ASS'N 2016).

## B. Court Systems & Court Service Providers

Courts are on the front line of the growing numbers of self-represented civil and family court litigants. Difficulties navigating the process, problems completing and filing forms, and challenges navigating hearings and trial all impact court staff and judges in terms of time, efficiency, and—in some instances—case outcome.[9] Court systems stand to benefit greatly from an increase in attorney participation in appropriate cases, and there are things judicial system stakeholders can do to support the unbundled practice model:

- Familiarize judges and court staff with the unbundled model.
- Educate litigants about the unbundled model, including how to access these services and how to assess whether these services are appropriate given a client's particular needs and situation.
- Engage court leadership in encouraging rulemakers to support the model and encouraging area attorneys to adopt the model. This might take the form of process and procedure modifications that can facilitate client representation through an unbundled model. Informal and expedited domestic relations trials, for example, provide an opportunity for limited scope attorney engagement, while expediting divorce case processing and freeing judicial time for high-conflict or high-touch cases.
- Provide practitioners with guidance on key issues related to offering unbundled trial services, perhaps making available standard, court-approved forms for entry of limited appearance, withdrawal from representation, etc. It is of critical importance to adopt a formal procedure that respects an unbundled legal services agreement in which the parties agree that the lawyer will not be representing the client in court—and will assuage attorney fears that the court could obligate them to represent a client in litigation even where such representation exceeds the scope of the legal services agreement.[10]

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[9] *See*, *e.g.*, CWC Research, *supra* note 5.

[10] *E.g.*, Or. Uniform Trial Court Rule 5.170: 5.170 LIMITED SCOPE REPRESENTATION

(1) Applicability – This rule applies to limited scope representation in civil cases subject to this chapter, when an attorney intends to appear in court on behalf of a party.
(2) Notice of Limited Scope Representation – When an attorney intends to appear in court on behalf of a party, the attorney shall file and serve, as soon as practicable, a Notice of Limited Scope Representation in substantially the form as set out on the Oregon Judicial Department website (https://www.courts.oregon.gov/Pages/default.aspx) .
(3) Termination of Limited Scope Representation – When the attorney has completed all services within the scope of the Notice of Limited Scope Representation, the attorney shall file and serve a Notice of Termination of Limited Scope Representation in substantially the form as set out on the Oregon Judicial Department website (https://www.courts.oregon.gov/Pages/default.aspx) in accordance with UTCR 3.140. UTCR 8/1/17 5.10.
(4) Service of Documents – After an attorney files a Notice of Limited Scope Representation in accordance with this section, service of all documents shall be made upon the attorney and the party represented on a

- Stress the importance of court-private sector synergies to capture lessons from both fields.

## C. Attorneys & Professional Organizations

With the proliferation of information online, a growing number of legal services platforms,[11] and increasing court efforts to provide self-help programming, there is an opportunity for individual attorneys to redefine the services they offer and the value they bring to clients. An unbundled model supports this reinvention:

- The traditional mindset of attorneys and clients alike, that full service representation is necessary in family law cases, no longer reflects the current reality that *some* legal help is better than *no* legal help. Messaging to prospective (and appropriate[12]) unbundling clients that some help is available at an overall lower cost than full service representation is a marketing tool to meet the latent client demand.
- An unbundled legal service delivery model is not just appropriate for, or attractive to, low-income and modest-means clients. Individuals of all income and education levels may be drawn to the ability to retain certain aspects of their case, limit the engagement of an attorney, control legal fees, and define the scope of the attorney's work.[13]

Discussion at the Conference also reminded attorneys of the reality that unbundling is a business model and—like any law practice model—requires forethought and planning in order to be successful. Unbundled practitioners presenting at the Conference offered a number of practical suggestions for incorporating unbundling into a law practice[14]:

- In terms of defining the scope of an unbundled practice, begin by considering the whole-picture perspective of serving a client, parsing out from there the tasks that are particularly high-impact for potential clients or aligned with personal specializations and training. Equally important is deciding at the outset what, if any, services will *not*

limited scope basis. The service requirement terminates as to the attorney when a Notice of Termination of Limited Scope Representation is filed and served, or when an attorney withdraws.

[11] Legal service providers such as RocketLawyer, Avvo, and LegalZoom are increasingly offering opportunities to discuss discrete topics with an attorney for a flat fee.

[12] An unbundling arrangement will not be appropriate for all cases and all litigants. An unbundled practitioner should adequately screen clients before entering into the client-attorney agreement. *See* FORREST S. MOSTEN & ELIZABETH POTTER SCULLY, UNBUNDLED LEGAL SERVICES: A FAMILY LAWYER'S GUIDE 51-76 (2017) (detailing strategies and tools for client intake and the initial client conference).

[13] *E.g.*, CWC RESEARCH, *supra* note 5, at 16-20.

[14] *See also* MOSTEN & SCULLY, *supra* note 12, at 245-276 (providing an overview of successful models in place around the country).

be offered to unbundled clients, such as formally entering an appearance in a case or representing a client at court hearings.

- Screen clients to determine client and case suitability for an unbundled arrangement. Factors to consider include case type, complexity of issues, hearing/trial requirements, opposing party representation status, etc. Client characteristics are also very important in determining suitability: for example, the presence of domestic violence or other significant power imbalance that would affect a client's ability to perform their tasks under the agreement, client sophistication to understand the limitations of the unbundling agreement and perform their role under that agreement, etc.
- Understand how to convert an unbundled arrangement into a broader scope arrangement—and what documentation is necessary to do so. Many lawyers who offer unbundling services report that it is common for an unbundled arrangement to lead to full service representation or an expanded scope of unbundled services.
- Develop a repository of appropriate forms to reference, including screening checklists, special retainer agreements, form documents, and other materials that can streamline the process.
- Remember that pricing, marketing, lead generation, client conversion, fee collection, and other commonly encountered practice issues are no less of a consideration for an unbundled practice.
- Contact malpractice carriers to ensure they will provide coverage for limited scope representation arrangements.[15] Also, and as with any legal services delivery model, attorneys should be proactive and employ strategies to avoid malpractice in the first instance. Use existing resources, where available, to navigate potential or actual ethical issues that might arise from an unbundled client arrangement.[16]
- Use technology tools to significantly streamline an unbundled practice. Client management systems, document assembly programs, automated billing systems, and other technologies can create the efficiencies needed to grow a thriving unbundled law practice.

Finally, support across professional organizations and within attorney communities can be an effective means through which to spread unbundling. Unbundling needs to be a more institutionalized part of the legal profession; otherwise, there is no appropriate home for this

[15] Reports from participants at the conference indicated that malpractice providers are generally willing to cover limited scope representation arrangements.

[16] The Colorado Bar Association facilitates a Hotline through which attorneys with ethical dilemmas or questions can have a 10-minute conversation with a member of the Ethics Committee. *Ethics Committee*, COLO. BAR ASS'N, http://www.cobar.org/ethics (last visited June 14, 2018).

service delivery innovation.[17] Endorsements from respected, well-known bar leaders can provide and instill a sense of permission and support. Conversely, bar leaders and professional organizations condemning and opposing the model can create a chilling effect on broader practitioner willingness to adopt the model.

## D. Law Schools & Legal Educators

Conference discussions on the role of legal educators suggested a need for realigning law school curriculum—and perhaps also the underlying ethos of legal education—around helping law students appreciate the diversity of potential client bases and the implications for models of legal services delivery. Courts and legal providers are increasingly adopting a customer-centric approach to serving justice system users, and this focus should similarly be built into efforts to reframe legal education. As noted by Woody Mosten in a comparison between the legal profession and the medical profession:

> If you have trouble breathing or feel a sharp pain in your heart, would you first consult an internist or a heart surgeon? Most people understand that surgery is an invasive procedure that should be considered as a last option only when necessary, and rarely as a first step. The same can be said of litigation.[18]

From a practical standpoint, information on unbundled models (including how to operate an unbundled practice) should be included in law school curriculum. To this end, conference discussions highlighted opportunities for modifying law school curriculum in a number of ways:

- Expose law students to a variety of practice models and law practice options, including the unbundling model.
- Teach skills associated with a law practice (including an unbundled practice) in addition to legal reasoning and analysis.
- Parse out and train students on the discrete tasks that might comprise an unbundled practice: advising, mediation, document assembly, coaching before trial, etc.
- Integrate education on law practice and legal service delivery models into professional responsibility and ethics courses, and test students on commonly encountered or anticipated issues.
- Ensure diversity in faculty law practice experience to facilitate student exposure to a variety of practice types and diverse client needs.

[17] *E.g.*, *Section Directories, Unbundled Law*, Alaska Bar Ass'n, https://alaskabar.org/member-services/section-directories (last visited June 14, 2018).
[18] Mosten & Scully, *supra* note 12, at 39.

- Incorporate the delivery of unbundled legal services into experiential learning programs.
- Support post-graduate incubator projects to teach young attorneys about delivering unbundled legal services and operating an unbundled practice.

# III. Opportunities for Enhanced Collaboration Among Stakeholders

At the Conference, participants identified collaboration as essential to the advancement of unbundled services. According to Jon Asher, Executive Director of Colorado Legal Aid, "Unbundling will only get traction if implemented through collaboration of stakeholders in varied areas of service." To that end, panel sessions and expert presentations highlighted a number of areas for collaboration among stakeholders, including legal providers, technology providers, court systems, and community services.

## A. Between Legal Providers & Technology Providers

It is arguably still the case that technology solutions alone, completely independent of human involvement, cannot yet provide most clients with legal advice and representation (although one cannot ignore that this possibility is on the horizon, however distant). For now, though, technology providers are playing an essential role in expanding unbundled services by facilitating connections between clients and legal services providers.

Legal directories (like Martindale-Hubbell and Justia), online legal marketplaces and matching platforms (like Avvo, Legal Zoom, Court Buddy, Unbundled Attorney, and UpCounsel), legal insurance plans (like those offered by ARAG and LegalShield), and other business-to-consumer legal technology providers are facilitating client-attorney connection on a scale not possible by solo and small firm marketing efforts. While the business models vary across these providers, access to attorneys delivering unbundled legal services is at the core of many of them. Additionally, the contribution of these online/technology stakeholders to the spread of unbundling extends beyond the connector function. Leading platforms have paved the way in messaging about this new practice model and are familiarizing customers with these alternative approaches to legal services delivery.

Business-to-business technology providers are also facilitating implementation of the unbundled model by creating efficiencies on the practice side which, in turn, make an unbundled model more accessible (and potentially lucrative) for practitioners. Document assembly and automation, user-friendly client portals, attorney-client communication tools, calendaring functions, and other features are creating an efficient structure for delivering discrete task legal

services. Additionally, AI-powered tools are increasingly becoming part of law practices, offering opportunities for redefining legal services and streamlining client engagement. There is an opportunity here for younger, more technologically savvy attorneys to mentor and train new and established attorneys alike on the technological aspects of streamlining an unbundled practice.

## B. Between Court Systems & Legal Professionals

In states where unbundling is successfully spreading, there is a symbiotic relationship between court system support for the model and attorney willingness to implement the model. Natural partnerships between the legal profession and court stakeholders can grow this support:

- While courts cannot give self-represented litigants advice (or demand they engage the services of an attorney), court staff and judges *can* educate litigants on the existence of the unbundled model, which in turn may facilitate the model's usage and provide litigants with the tools to help them decide if unbundling is appropriate for them.
- In addition to educating litigants about the existence of affordable legal services options, courts—in partnership with bar associations—can offer litigants a vetted list of attorney providers who offer unbundled legal services, making this list available at court self-help centers and online.[19]
- Jointly hosting continuing legal education and judicial education programs with bar leaders can help demonstrate the judiciary's commitment to unbundling as a model.[20]
- Law libraries exist as an important but sometimes overlooked intersection between attorneys, court staff, judges, and self-represented litigants. Litigants often turn to law libraries for help, especially in the absence of a dedicated self-help center or website. Law libraries can facilitate the spread of information and authorized referral lists of unbundled practitioners.

## C. Between Attorneys & Community Organizations

Partnerships with community organizations can facilitate the connection between providers and clients. Healthcare facilitites, immigration clinics, veterans' organizations, and

[19] A number of jurisdictions that currently offer litigants a list of attorneys who provide unbundled services include, but are not limited to: Maricopa County, AZ; Mecklenburg County, NC; and King County, WA.
[20] In Colorado, for example, a group of lawyers and judges created a traveling roadshow, giving presentations around the state to educate practitioners on the model and discuss common fears that impede attorney willingness to adopt it. James Carlson, *Order up! Legal services go a la carte*, COLO. SUPREME COURT OFFICE OF ATTORNEY REGULATION, http://coloradosupremecourt.com/Newsletters/Summer2016/order_up_legal_services_go_a_la_carte.htm (last visited June 14, 2018).

other community partners can provide natural sites for attorney-client partnerships in various substantive legal areas that lend themselves to an unbundled model. Law schools and legal clinics can serve these specific, discrete community needs while also training law students on the practice. Large law firm pro bono initiatives are also well-positioned to develop and staff these relationships, providing new attorneys with an opportunity to gain experience directly serving in-need clients through discrete task representation.[21]

## IV. Crawling, Walking, & Running Toward Unbundling: Strategic Planning for State & Local Implementation

Because individual states and local jurisdictions are in vastly different stages of enabling, implementing, and institutionalizing unbundled legal services, strategies and tools being employed in one jurisdiction may not be appropriate or timely in another jurisdiction. During the Better Access through Unbundling Conference, working group sessions brought together stakeholders from similarly situated jurisdictions to develop tailored strategic plans for increasing the visibility, adoption, and use of the unbundled delivery model in their respective jurisdictions.

For purposes of connecting participants whose home states are in similar stages of implementing unbundled legal services, conference attendees self-identified their state as fitting into one of three categories: Crawling, Walking, or Running. Conference hosts provided the following broad outline to help participants identify the most appropriate category[22]:

- Factors that might characterize jurisdictions that are "crawling" with respect to implementing unbundled legal services include: the rules changes authorizing the model were only recently enacted; many members of the bar do not know what unbundling is or do not understand how to incorporate the method into their practice; many judges are reluctant to allow the practice.
- In jurisdictions that are "walking," we might expect to see some enabling rules in place governing limited scope representation; the state bar and other CLE providers are beginning to develop programs on unbundling and how to incorporate the model into a law practice; a few lawyers in the jurisdiction are well-known for offering

[21] The Los Angeles Incubator Consortium (LAIC) is a partnership between Southwestern Law School, UCLA School of Law, Loyola Law School, Los Angeles, the Los Angeles County Law Library, and local legal aid organizations. Graduates of these law schools who are selected to join the 12-month program receive mentoring and training on the law and ethical law practice management, with the requirement that they provide 100 hours of pro bono work during that time. Los Angeles Incubator Consortium, https://www.laincubatorconsortium.com (last visited June 14, 2018).

[22] *Finding Your Community*, http://iaals.du.edu/sites/default/files/documents/publications/finding_your_community_parameters.pdf IAALS, (last visited June 14, 2018).

unbundled legal services; courts are increasingly accepting of unbundled arrangements.

- Finally, "running" jurisdictions might be identified by the following characteristics: unbundling is becoming or is already commonplace among attorneys; clients and potential clients are beginning to understand what unbundling means and who offers it; the state bar and other CLE providers offer an array of programs on unbundling and how to incorporate the model into a law practice; attorneys are effectively advertising and educating clients on unbundled services; courts and self-help center staff make available lists of unbundled providers; judges encourage limited scope representation.

While classifying state implementation status and progress is far more complicated than these simplistic groupings suggest, this framework allowed participants to find strategic planning partners who shared implementation challenges and opportunities. The reports from these working groups—presented in a plenary session at the conclusion of the Conference—offer a series of strategic planning action items designed to address the needs of jurisdictions at any stage of unbundling implementation.

## A. States in the Crawling Stage

Conference participants in jurisdictions identified as just having begun the conversation on unbundling, or otherwise in the early stages of embracing the practice, highlighted a number of foundational elements that should be in place to support the success of the unbundling model:

- ***Changing Rules & Regulations***: A precursor to any strategic plan for promoting unbundling is implementing the appropriate regulatory infrastructure to support the practice. Rules of professional conduct, rules of civil procedure, and other policies should be amended to explicitly authorize the limited scope representation model and the attendant legal services and activities.
- ***Framing the Need***: The underlying principles supporting unbundling and other alternatives to the traditional legal services delivery model are rooted in access to justice. Framing the importance of and urgency behind unbundled services in this context provides a meaningful motivation for rule makers and regulators to get behind the model.
- ***Understanding Constituent & Community Needs***: Each jurisdiction is unique in the legal issues and needs prevalent among community members. Understanding the demographics of one's community and how access to justice issues manifest among community members can help unbundled practitioners better define services.

- ***Recruiting Champions***: Every cause needs champions, and engaging key stakeholders from the bar, the judiciary, the legal profession, and the broader community is a solid strategy for advancing the unbundled model across multiple channels. Malpractice carriers are an important but often overlooked contingent, and engagement from these stakeholders can go a long way in providing attorneys with the permission they need to seriously consider an unbundled practice.

## B. States in the Walking Stage

States with the regulatory infrastructure and stakeholder support system in place still frequently encounter challenges with attorney implementation and adoption of the unbundled model. Supply-side solutions to increase the number of attorneys who offer unbundled legal services include the following:

- ***Attorney Education & Training***: In many jurisdictions, running an unbundled practice is not something lawyers will have covered in law school. The impetus is therefore on state and local bar associations to develop CLE programming on unbundling for practitioners that both educates them on how to implement the practice and also allays concerns over offering these services.
- ***Broader Recruiting Programs***: Early attorney adopters will proactively seek and take advantage of CLE programs on unbundling; these early adopters will also be creative and active in serving the legal needs of their communities. But CLEs serve another function beyond training those who have already bought in and that is messaging to skeptics and late adopters about the promise of an unbundled practice.
- ***Business Model Messaging***: In addition to providing training tools to attorneys interested in implementing unbundling into their law practice, it is important to message to attorneys that this is a viable business model. CLE programs can satisfy this function, as can informal or formal mentorship programs that leverage the experience and expertise (and energy) of established, respected unbundled practitioners.

## C. States in the Running Stage

Jurisdictions where unbundling is becoming or already is an established fixture in legal communities still experience implementation challenges, particularly with respect to generating public attention and client demand. These demand-side issues often manifest themselves in the difficulty attorneys face finding clients and the difficulty potential clients face learning about and understanding the model. No matter how available or affordable a legal solution might be, public education about non-traditional service models can be an uphill battle—especially given the

widespread familiarity with traditional models and the often-voiced criticism of those models' cost.

Many strategic plans from running-stage states include extensive strategies for connecting with the public that heavily leverage technology tools and collaboration with justice system and community partners:

- ***Referral Pipelines***: Bar association-developed and appropriately vetted lists of unbundled attorneys can reach clients in greater numbers when distributed through the courts. Similarly, referral pipelines from legal aid organizations, court-based educational programs, and public law libraries can help these providers direct in-need clients to affordable legal solutions.
- ***Outreach to Community Organizations***: There was a clear appreciation among conference participants identifying with states in the running stage that the burden is on attorneys to meet clients where they are. Practitioners in these states reported expanding their reach beyond obvious client sources, connecting with religious institutions, libraries, rural communities, etc.
- ***Robust Public Education***: Educating the public about changes in the delivery of legal services is a foundational prerequisite to attracting client attention and business. Advertising is a growing tool for unbundled practitioners and leveraging publicity around celebrity legal events and other relevant news stories, to the extent these opportunities exist, might potentially bring what are otherwise internal industry conversations into the mainstream.
- ***Refining & Expanding Messaging***: Talking to the public about unbundled legal services is a much different exercise than talking to the legal community about the model. Messaging to the public about the importance of affordable legal services and the availability of new service delivery models should focus on how these issues directly impact people's lives.

Strategic plans for running states also leveraged court partnerships to change the way unbundled attorneys and their clients interface with court processes:

- Develop streamlined court processes that create both efficiencies for self-represented litigants and opportunities for unbundled practitioners to participate in the process.[23]

[23] Oregon has pioneered a new, streamlined type of trial, called an Informal Domestic Relations Trial (IDRT). The IDRT is a voluntary process, where parties can be represented by attorneys or represent themselves. The Rules of Evidence are suspended, allowing parties to say everything they think is important and to introduce into evidence everything they think is relevant. Additionally, the parties speak directly to the judge about the disputed issues, only the judge asks questions, and other witnesses are not allowed to testify unless they are an expert and given permission by the judge. OR. UNIFORM TRIAL CT. R. 8.120 (2017); *Informal Domestic Relations Trial*, OR. JUDICIAL

- Give judges more flexibility to pause proceedings so self-represented litigants can consult with an unbundled attorney (and resume the process in a timely manner thereafter).
- Change hearing setting models to frontload cases with self-represented litigants, providing attorneys with an opportunity to potentially connect with potential clients on discrete issues.[24]

Finally, in jurisdictions where unbundling is becoming or is already commonplace among attorneys, there was discussion around how to redefine legal services and approaches to service delivery. When the various components of a full service representation model are broken down into their discrete parts, new ways of messaging about these tasks emerge—both in terms of defining the scope of the service and in justifying the value to clients:

- Giving advice is central to any attorney's service model. For unbundled practitioners, there is an explicit agreement regarding the advice that is given. This strengthens attorney-client communications and creates a level of acknowledgement that is often understated (or lost entirely) in full service representation arrangements. As a result, this explicit communication may provide clients with a more tangible understanding of the service for which they are paying.[25]
- Coaching—where a lawyer provides behind-the-scenes guidance to a client—is another function implicitly built into many full service representation models. The University of Windsor Faculty of Law is redesigning some of these coach-like functions (and pairing them with important non-legal skills) into a separate client service. Law students in the first-of-its-kind program in North America are being trained in this new role through a Self-Represented Litigants Conflict Coaching class.[26]
- The value of certain soft skills in legal services delivery is sometimes overlooked. But in high emotion case types like divorce, for example, a thoughtful attorney can minimize some of the emotional stress associated with the process.[27] The previously

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BRANCH, https://www.courts.oregon.gov/programs/family/forms/Pages/Informal-Domestic-Relations-Trial.aspx (last visited June 14, 2018).

[24] The common rationale for putting cases with represented parties at the beginning of the docket is to avoid having attorneys wait and accrue costs, but there is also a compelling argument for this approach, as it provides self-represented litigants with an opportunity to observe and learn about the process before they engage in it.

[25] *E.g.*, CWC RESEARCH, *supra* note 5, at 23.

[26] The class was pioneered by Dr. Julie Macfarlane, Full Professor in the Faculty of Law at the University of Windsor. Dr. Macfarlane leads the National Self-Represented Litigants Project (NSRLP) that builds on her groundbreaking National Self-Represented Litigants Research Study. This qualitative empirical research study provided the foundation for the IAALS *Cases Without Counsel* study, and Dr. Macfarlane served as an advisor to IAALS on that project. *Windsor Law To Offer For-Credit SRL Coaching Course*, NSRLP (Aug. 21, 2017), https://representingyourselfcanada.com/windsor-law-to-offer-for-credit-srl-coaching-course.

[27] CWC RESEARCH, *supra* note 5, at 46-47.

mentioned Windsor Law SRL Conflict Coaching class recognizes the importance of providing emotional support to people in the legal process. Not traditionally advertised alongside attorney services and credentials, an unbundled practitioner might frame this role as a service in and of itself.

- Preventive legal wellness services and legal checkup programs are growing in popularity, creating forward-looking opportunities for assisting clients, as opposed to limiting services to those that are reactive in nature.

## V. Building Foundations for the Future of Unbundling

Every good movement needs champions and early adopters. Fortunately, on the road to advancing unbundling, we have many. The Conference showcased leaders in the field of unbundling, and panelists and attendees submitted a wealth of materials relevant to any and all stakeholders engaged in or supportive of client-centric legal services delivery.[28] These materials complement the already robust and growing collection of unbundling resources housed on the ABA Standing Committee on the Delivery of Legal Services Unbundling Resource Center.[29]

The goal of the Better Access through Unbundling: From Ideation to Implementation Conference was to facilitate a forum in which stakeholders could share, collaborate, and advocate for unbundling as a path to help close the justice gap. We succeeded in that effort and by releasing this report now hope to broaden that forum to reach other stakeholders and other organizations who share a commitment to advancing unbundled legal services. One step at a time, we will move from ideation to implementation.

[28] *Better Access through Unbundling Conference Materials*, http://iaals.du.edu/events/better-access-through-unbundling#tab=materials (last visited June 14, 2018).

[29] *Unbundling Resource Center*, AM. BAR ASS'N, https://www.americanbar.org/groups/delivery_legal_services/resources.html (last visited June 14, 2018).

# Arizona Commission on Access to Justice

| Meeting Date: | Type of Action Requested: | Subject: |
|---|---|---|
| November 14, 2018 | ☐ Formal action or request<br>☒ Information only<br>☐ Other | Report from the Inter-Governmental Collaboration Workgroup |

From: Judge Lawrence F. Winthrop, chair, and Chris Groninger, Arizona Foundation for Legal Services & Education

Presenters: (Same)

Discussion: Chris Groninger will discuss the $1.1 million federal VOCA Vision 21 grant that the Arizona Foundation for Legal Services & Education received.

Judge Winthrop will discuss the workgroup's strategic planning focus, Second Chance Centers, and providing legal aid services to victims of the opioid crisis.

Recommended motion: None.

# Ducey, Arizona Cardinals players visit 'Second Chance' program for prisoners



Marcus Moore is 45 years old. He has spent 26 of those years incarcerated.

He said it wasn't until this final year, in the last few months of his sentence, that he felt he was treated "like a human."

When he arrived at the Lewis state prison complex, home to one of the state's "Second Chance" re-entry programs, a corrections officer gave him a handshake.

"I was worried it was a setup," he said Tuesday, as other inmates laughed and nodded.

Moore is poised to join the more than 1,600 inmates who have graduated from the eight-week re-entry program, a Gov. Doug Ducey-backed initiative that has tripled in size since its creation early last year.

**MORE:** Officials, neighbors criticize Ducey plan for inmates in Durango Jail

The program aims to reduce recidivism by giving individualized attention, including job- and life-skills training, to prisoners considered "moderately or highly" likely to commit another crime upon release. It also recruits local employers willing to take a chance on convicted felons in the hopes that other companies will follow suit.

"There are 42,090 men and women in Arizona state prisons," said Ducey, who — along with Arizona Cardinals President Michael Bidwill and players Antoine Bethea and Corey Peters — toured a Second Chance center Tuesday.

“Nearly all of them will be released," Ducey said. "We’re working from the state perspective to make sure they’re prepared.”

About 60 percent of Second Chance participants leave prison with a job, according to Tim Roemer, the governor's public-safety adviser. And though not all of them succeed in keeping those jobs, state officials say the recidivism rate among graduates has seen a 30 percent reduction.



## 'More jobs than people'

The Second Chance initiative marks a philosophical shift in a state that has long prided itself as tough on crime — likely because that stance has not come cheap.

It costs Arizona more than $24,000 a year to lock up one inmate. State budget records show general-fund allocations for the Arizona Department of Corrections increased nearly 21 percent over 10 years, three times the growth rate of K-12 funding.

That spending hasn't been particularly effective. Arizona's recidivism rate is among the bottom half of U.S. states.

"When I first visited (the program), the press asked, 'Isn't it a risk to ask employers to hire convicted felons?' " Ducey said. "I think it's a risk not to. What will (inmates) do if they don't have a job?"

The state has put $6.8 million toward the re-entry initiative to date, according to the Governor's Office.

**MORE:** Phoenix neighbors push back on plan for jail re-entry program

The governor's first stop on Tuesday's tour was a "resource room" focused on substance-abuse treatment. Nearly 80 percent of inmates have a problem with addiction, which can complicate their transition to life outside prison, according to corrections officials.

"Employers report that sometimes they return to substance abuse and stop showing up for work," adviser Roemer had told the governor, Cardinals players and other state officials before they went in.



Bidwill addressed the issue in a pep talk he gave to the inmates who had gathered in the addiction classroom, a handmade "#1 Cardinals Fan" sign on the wall behind them.

“You’ll be tempted when you get out," Bidwill said, encouraging them to surround themselves with a supportive group and ask for help if needed.

"… You set the tone for the guys behind you.”

Next, the group visited a computer lab where participants work on resumes and job skills. There, inmates said they had learned how to enhance their vocabularies and answer interview questions, among other job-hunting tips.

Carlos Mendoza, who had a week to go before his release, told the governor he had received two job offers: one at a warehouse and another in landscaping. He hoped to use them as a stepping-stone, later pursuing a beauty license to open a barbershop.

"I don't know what the economy was like when you came in, but right now, we have more jobs than people to fill them," Ducey told the class.

## 'The right mind-set'

The group continued on to a job fair, an event the complex hosts monthly for graduating participants.

Employers in construction, commercial moving and other industries spoke to the 110 inmates in attendance one-on-one, providing job applications they could fill out on-site if they thought they would be a good fit for available positions.

Representatives took care to speak to the inmates about their specific strengths and plans. At the Jacksons Car Wash booth, for instance, one recruiter asked a participant whether he was more interested in sales or car detailing.

**MORE:** Phoenix re-entry center for felons to adjust policies to ease neighbors' concerns
Finally, the group visited a hands-on training area that teaches inmates how to do masonry work and install drywall, among other construction-industry skills. The program "simulates real days at work," according to instructors, with a 6:30 a.m. start time and a brief lunch break.

John Ransom, a 33-year-old graduate released a month and a half ago, completed the masonry apprenticeship toward the end of his 15-year sentence. He began working for Top Quality Masonry immediately after getting out.

He told the governor that pocket money, affordable housing and transportation had proved challenging: The bus trip between home and work alone takes two hours.

He said he has surmounted those obstacles by leaving the program "with the right mind-set."

“I wanted it. I did it. And I’m doing great,” he said.




## 'We're here to support you'

After the tour, the visitors gathered for an informal town hall, where they heard mostly success stories and a few complaints.

Arthur Robertson, 47, said he had passed through prison systems in four states, but Arizona's was the only one that helped put him on track to get a job. He got out 10 months ago, he said, and it's "the first time I've been 10 months crime-free" as an adult.

"This is a ‘seize the day’ moment in your life," Bidwill told participants. "It’s going to be a lonely fight sometimes … Know that we’re here to support you.”

Tuesday's visit came just over a month after the governor met privately with Bidwill and three Cardinals players to discuss criminal-justice and prison reform.

**MORE:** 'Re-entry center' for felons in north Phoenix upsets neighbors
The discussion was part of a pledge Bidwill made to players last year, after President Donald Trump said he would love to see an NFL owner fire a player for kneeling during the anthem.

Since Cardinals players have not knelt in protest of the criminal-justice system's disproportionate impact on minorities, Bidwill promised to “try to get us in front of some

lawmakers, some people who really influence change," Peters told *The Republic* last month.



Peters said he was skeptical about the Second Chance program. But "after seeing it, I think I'm even more committed," he said Tuesday.

At the town hall, Bidwill announced the team would ensure the complex's football field had grass; donate tickets to employers to take program graduates to games; and use their public platform to urge more employers to participate in the initiative.

The governor also vowed to work on participants' requests, such as additional addiction resources, compassionate parole programs and the elimination of abrupt release-date changes.

"If we could reduce recidivism even by 50 percent, we could shut down prisons instead of building new ones," he told the inmates.

*Republic reporter Craig Harris contributed to this article.*

FACT SHEET

THE JUSTICE IN GOVERNMENT PROJECT
GETTING RESULTS WITH LEGAL AID

NLADA
National Legal Aid & Defender Association

# Civil Legal Aid Helps Those Affected by the Opioid Crisis

Among the nearly 72,000 drug overdose deaths in 2017, the sharpest increase occurred among deaths related to opioids.[1] **Every day, 1,000 people are treated in emergency rooms for opioid overdoses.** The total economic burden is estimated to be $504 billion.[2] Of this, $28.9 billion is due to health care costs. Including those in recovery and their extended family members, **more than 11 million Americans are affected by the opioid crisis,** with 2.1 million addicted.[3] They need our help.

Policymakers know the current epidemic requires a multi-disciplinary response that includes law enforcement, doctors, nurses, mental health professionals, social workers, and case managers.

**But civil legal aid providers are also essential partners in solving one of America's most pressing public health issues.**

## STUDIES HAVE SHOWN...

**Legal aid helps with child support, custody, adoption, and guardianship when parents are unable to care for their children:**

- When parents have periods of intense drug use, children may not be properly fed, clothed, or cared for.[4]
- Children of addicted parents experienced dramatically increased medical, behavioral, and psychological issues.[5]
- In states with the highest number of opioid-related overdose deaths, the child welfare systems are seeing increases in children being removed from their parents' care.[6]



**Legal aid can help reduce burdens on the child welfare and health care system, improve health, and reduce stress:**

- When parents, including those with a Substance Use Disorder (SUD), have legal representation, children exited foster care at a rate 11 percent higher than unrepresented parents.[7] Representation almost doubled the speed to adoption and doubled the speed to legal guardianship.
- Representation leads to cost savings for foster parents, subsidies for children's medical care, cash benefits, and the expense of monitoring the foster family.[8]
- Patients receiving legal services reported reduced stress levels and improved health.[9]
- When civil legal needs were addressed, inpatient and emergency department use dropped 50 percent and health care costs decreased 45 percent.[10]
- When parents have access to legal services, child health and access to food and income supports improved.[11]

## LEGAL AID HELPS...

### Grandma gets help to enroll grandchildren in school

"Norma" received a call from her daughter's neighbor in a distant city. The daughter – suffering from opioid addiction – had left Norma's grandchildren with the neighbor and disappeared. After a week, the neighbor could not care for the children and called Norma. Norma went to the Legal Aid Society of Greater Cincinnati the next day. The attorney volunteer drafted a "Grandparent Caregiver Affidavit" that Norma filed with the court the same day. This gave Norma immediate authority to enroll the children in school, take them to the doctor, and apply for benefits to ensure she could afford to properly feed her grandchildren.[12]

### Medical-legal partnership helps family stay housed

"Melissa" lives in a home with her adult son "Brian." While Brian is currently in recovery for an opioid-related SUD, this wasn't always the case. When still using opioids, he drained his mother's bank account to buy drugs, leaving her unable to pay her mortgage. Through a medical-legal partnership, Melissa's health care provider referred her to their Indiana Legal Services partner attorney who helped her negotiate a loan modification. Under the new terms, Melissa could make the payments and stay in her home, along with Brian, who remains in active recovery with a stable place to live.[13]

## HOW LEGAL AID HELPS ADDRESS THE OPIOID CRISIS

The Substance Abuse and Mental Health Services Administration identifies health, home, purpose, and community as four essential components to recovery from drug addiction.[14] Because legal aid can help individuals with opioid-related SUDs secure housing and health care services, ensure their children are cared for, escape domestic violence, and remove obstacles to employment, legal aid supports these four components, increasing the likelihood of recovery.

Legal aid programs have partnered with local courts, bar associations, schools, and their medical counterparts to provide legal help, often leveraging staff attorneys and paralegals with pro bono volunteers.

## EXAMPLES OF PARTNERSHIPS WITH LEGAL AID

### Medical-legal partnerships help individuals with SUDs

Indiana Legal Services and Eskenazi Health teamed up to help people with SUDs expunge criminal records, secure housing assistance, and navigate custody issues.[15] In Ohio, Good Samaritan Hospital Faculty Medical Center's program to help opiate-addicted pregnant women adresses legal needs related to homelessness, human trafficking, domestic violence, and access to benefits through their partnership with Legal Aid Society of Cincinnati. Training ensures that attorneys and paralegals better understand SUDs, and nurses and social workers learn how to spot problems with possible legal solutions and make referrals.[16]

### Partnerships with courts and bar associations

Local news profiled Texas Legal Services Center[17] and Legal Aid Society of Greater Cincinnati[18] when they launched pro bono partnerships with courts and bar associations to provide grandparents and other extended family members with free legal help to care for the children when the opioid epidemic robs them of their parents.

### Legal aid programs awarded US Department of Justice grants to partner with nonprofits and schools

In September 2018, the US Department of Justice Office for Victims of Crime awarded *Enhancing Community Responses to the Opioid Crisis: Serving our Youngest Crime Victims* grants to ensure critical legal help: Ohio State Legal Services Association will convene community partners to launch the Appalachian Ohio Children's Victim Assistance and Prevention Project; Legal Aid Services of Oklahoma will partner with the Center on Child Abuse and Neglect, and Kids' Space, for wraparound multidisciplinary services; and Legal Aid of West Virginia and Legal Aid of the Bluegrass will provide trauma informed legal and other services to children and their caregivers in partnership with public elementary schools.[19]

## FUNDING OPPORTUNITIES

Several federal grant sources can fund social services – including legal services – to individuals and families dealing with SUDs. Examples of federal block grants administered at the state level or grants administered directly by federal agencies that allow funds for legal help in include: Substance Abuse Prevention and Treatment Block Grant and Mental Health Services Block Grant;[20] State Targeted Response to Opioid Crisis Grant;[21] Rural Community Opioid Response Funding Opportunity;[22] state VOCA Victim Assistance Formula Grants;[23] and AmeriCorps State and National.[24]

**For more information** about using federal funds to expand legal services for people dealing with the opioid epidemic, contact Karen Lash, The Justice in Government Project, American University: klash@american.edu and Radhika Singh, National Legal Aid & Defender Association's Civil Legal Aid Initiative: r.singh@nlada.org. For more information about medical-legal partnership, contact Ellen Lawton, National Center for Medical-Legal Partnership: ellawton@gwu.edu

**Endnotes**

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23 https://ojp.gov/ovc/pubs/crimevictimsfundfs/intro.html#VictimAssist

24 https://www.nationalservice.gov/build-your-capacity/grants/funding-opportunities/2019/overview-state-and-national-grants-fy-2019#2019%20AmeriCorps%20Funding%20Priorities (One of seven priority areas is "reducing and/or preventing prescription drug and opioid abuse")

THE JUSTICE IN GOVERNMENT PROJECT

NLADA National Legal Aid & Defender Association

# U.S. Department of Justice Awards *Enhancing Community Responses to the Opioid Crisis* Grants to Connect Children and Caregivers with Legal Help

Civil legal aid programs in Kentucky, Ohio, Oklahoma, and West Virginia are launching projects to provide legal help to children and their caregivers affected by the opioid crisis. The U.S. Department of Justice Office for Victims of Crime (DOJ OVC) *Enhancing Community Responses to the Opioid Crisis: Serving Our Youngest Crime Victims* grant announcements were made on October 1, 2018.[1]

Across the nation, communities struggle to respond to the opioid crisis. DOJ OVC invited proposals calling for a multi-disciplinary approach: "A strong link between crime victimization and substance abuse has been evidenced for some time, and these issues cannot be successfully addressed in 'silos' or by one discipline or agency."[2] These projects will work collaboratively with schools, law enforcement, health and social service providers, and other community partners.

## Legal Aid of the Bluegrass (LAB): KY Children RISE (Reducing Impediments to Stable Education)

Studies show that children living with parents who have substance use disorders are three times as likely to be emotionally, physically, or sexually abused, and four times as likely to be emotionally or physically neglected. Local school districts also point to opioid abuse as a leading cause of soaring chronic absentee rates among their students. LAB will collaborate with school districts, family resource centers, health professionals and other community partners to create community driven clinics that holistically help child victims and families affected by the opioid crisis.

## Legal Aid Services of Oklahoma (LASO)

The Centers for Disease Control and Prevention rank Oklahoma 5th for the highest rate of opioid prescriptions nationally. In the last 15 years, death by drug overdose has increased 91%. Legal Aid Services of Oklahoma, Inc. (LASO) will provide civil legal aid to children victimized by the opioid epidemic. Together with its two partner programs, the "A Better Chance" (ABC) Program Clinic at the Center on Child Abuse and Neglect and Child Study Center at the University of Oklahoma Health Sciences Center (OUHSC), interdisciplinary teams will address the children and caregivers' wraparound needs, including help to ensure safe housing, legal custody or guardianship, and access to health and other benefits.

## Legal Aid of West Virginia (LAWV): Lawyer in the School Project

As the opioid crisis devastates West Virginia communities, an increasing number of children whose parents have a substance use disorder have caused child abuse and neglect statistics to soar. LAWV Lawyer in the School Project will provide services to youth impacted by the opioid crisis and who attend Marion County Schools. The Project seeks to stabilize the lives of the youngest victims of the opioid crisis, by providing onsite legal help to school families on issues like legal custody for caregivers, eviction, and disrupted income.

## Ohio State Legal Services Association (OSLSA): Appalachian Ohio Children's Victim Assistance and Prevention Project

Children of parents addicted to opiates are flooding into Ohio's child protection system. Ohio's child welfare system has seen a 19% increase in the number of children removed from parental care since 2010 and now has close to 15,000 children in custody. OSLSA will convene a comprehensive group of experienced community partners to provide evidenced-based, trauma informed care for children and youth victims of crime.

Endnotes
1 https://www.justice.gov/opa/pr/justice-department-awarding-almost-320-million-combat-opioid-crisis
2 https://www.ovc.gov/grants/pdftxt/FY18-Opioid-Young-Victims-of-Crime-508.pdf

# Arizona Commission on Access to Justice

| Meeting Date: | Type of Action Requested: | Subject: |
|---|---|---|
| November 14, 2018 | ☐ Formal action or request<br>☒ Information only<br>☐ Other | St. Vincent de Paul's Legal Clinic |

From: Ann-Marie Alameddin, Volunteer Lawyer, St. Vincent de Paul

Presenters: Ann-Marie Alameddin

Discussion: The presenter will discuss St. Vincent de Paul's Legal Clinic.

Recommended motion: None.

# PRO BONO PROFILES

If you are interested in volunteering at the Family Lawyers Assistance Project, please contact Patricia Gerrich, Esq. 602-258-3434, Ext. 2630 pgerrich@clsaz.org or www.clsaz.org

## Spotlight on Volunteers


Ann-Marie D. Alameddin


Ravindar K. Arora


James B. Connor


Ronald W. Meyer


Michael R. Palumbo

**By Peggi Cornelius**
VLP Programs Coordinator

Collaboration counts. It's often the way programs of social value and duration begin and flourish. The free legal advice clinic at St. Vincent de Paul's Watkins Campus in Phoenix is a stellar example.

In 2008, attorney Ann-Marie Alameddin joined the Volunteer Lawyers Program (VLP). Through her employment with the Arizona Hospital and Healthcare Association, she had developed an interest in Medical Legal Partnerships that were then forming as innovative pro bono projects. She attended a VLP continuing legal education program which prepared her to accept two pro bono cases for representation that year. In addition, she kept learning about and observing community advice clinics. A year later, the free legal advice clinic she devel-oped with Patricia Winthrop had taken shape and was implemented when they collaborated with attorney Ron Meyer and St. Vincent de Paul's Family Assistance Ministries.

Attorneys James Connor at Gallagher & Kennedy and Michael Palumbo at Jennings, Strauss & Salmon became part of the collaboration. The two law firms agreed to make the St. Vincent de Paul Clinic (SVDPC) a part of their community service commitments, and Connor and Palumbo agreed to coordinate the participation of firm attorneys who wanted to serve. They still do, today.

The SVDPC takes place on the third Thursday each month, in tandem with the evening meal on the Watkins Campus, from 4:30 p.m. to 6:00 p.m. Alameddin and Meyers are co-directors, each of them facilitating the clinic on alternate months. Myers says, "I'm there to keep it running." That means preparing the space, announcing the availability of the service, greeting those seeking consultations, and providing orientation, educational materials and resource information interviewing attorneys may find helpful. It can also mean conducting advice interviews, if needed.

The concerns people present during advice clinics reflect a wide range of life problems and legal issues. Connor summarized some typical interviews,

saying "While there are occasional questions about criminal law issues, residential leases or real estate, car loans, judgments, and job or wage problems are more frequent. For many people, I am the only attorney they've ever met. They can be overwhelmed by paperwork or matters that seem 'routine' to me."

Meyers adds that people requesting legal advice at the SVDPC might not otherwise seek it. "People are being assisted with other services St. Vincent family ministries offers, such as food or medical and dental care. Having legal advice available to them at the Watkins Campus is unique and important because most of them would not go to a separate legal facility."

In 2014, attorney Ravindar Arora of Alcock & Associates became a monthly volunteer at the SVDPC, offering his expertise as an immigration lawyer. He notes immigrants are particularly susceptible to fraud because they fear contacting legal authorities if there are problems with their immigration cases. Arora says, "There are document preparers and notaries who will charge to fill out forms and submit them without any supporting documents, or submit forms for applications for which people don't legally qualify." He believes any solution has to include education of the relevant population, as well as enforcement of laws against the unauthorized practice of law.

Since the SVDPC takes place in a facility where an evening meal is being provided to families, it's not uncommon for adults seeking legal advice to choose to have their children with them during the interview. Palumbo describes these instances as "more palpable" for him. "Family law, landlord-tenant and debt issues are prevalent, and the presence of children reminds me the kids are being impacted by their parent's situation." He's noticed people he meets at the clinic sometimes seem intimidated by their circumstances, and are especially appreciative of his time. He says, "Providing this service without consideration of remuneration gives me a special reward."

Naturally, each of the attorneys who contribute to the collaboration that makes the SVDPC so viable and effective humbly gives credit to their colleagues. Arora's expression of gratitude seems a fitting summary of their cumulative good works: "It's a great program and I'm honored to be a part." ■

**The Volunteer Lawyers Program thanks the following attorneys for their participation in the St. Vincent de Paul Legal Advice Clinic, October 2016 through December 2017:**

Ann-Marie D. Alameddin
Ravindar K. Arora
Jessica L. Beckwith
Jodi Bohr
Jeffrey P. Boshes
Shanna N. Bowman
Robert E. Brown
William A. Clarke
C. Lincoln Combs
James B. Connor
Andrew Dudley
R. Matthew Emerson
Scott F. Frerichs
Eric D. Gere
Paul G. Johnson
Anne L. Leary
Lindsay G. Leavitt
Ronald W. Meyer
Kenneth M. Motolenich-Salas
Garrett J. Olexa
Michael R. Palumbo
Christopher J. Rogers
Dominick San Angelo III
Patrick F. Welch

# Arizona Commission on Access to Justice

| Meeting Date: | Type of Action Requested: | Subject: |
|---|---|---|
| November 14, 2018 | ☐ Formal action or request<br>☒ Information only<br>☐ Other | Tucson Family Advocacy Program Medical Legal Partnership for Health |

From: Anne M. Ryan

Presenters: Anne M. Ryan, Esq., Assistant Professor, University of Arizona Dept. of Family and Community Medicine and Director Tucson Family Advocacy Program; and Jessie Pettit, MD, IBCLC, Residency Program Director, University of Arizona Family Medicine Residency Program and Medical Director Tucson Family Advocacy Program.

Discussion: Overview of Tucson Family Advocacy Program Medical Legal Partnership for Health including medical legal services provided and populations served.

Recommended motion: None.

# Tucson Family Advocacy Program: Medical Legal Partnership for Health

## Arizona Commission on Access to Justice
November 14, 2018

Jessie Pettit, MD
Anne M. Ryan, JD
Dept. Family & Community Medicine
University of Arizona

## Tucson Family Advocacy Program
## UA Dept. Family & Community Medicine




100+ MLPs / 294 institutions / 46 states

# Medical-Legal Partnership Approach




Building a healthcare team able to identify, treat and prevent health-harming legal needs for patients, clinics and populations



# Physician Perspective

- Quality medical care alone cannot always improve patient health
- Many acute and chronic diseases are exacerbated by stress of poverty
- Multi-disciplinary team approach benefits health providers, lawyers and patients:
  - Example 1: Substandard housing
  - Example 2: Barriers to Citizenship

## Example 1: Substandard Housing

- 60 y/o woman with asthma and moderate mental retardation at doctor for skin rash
- Lives with disabled adult son with paranoid schizophrenia
- Home visit by social worker documented broken cooler, cockroach infestation and strained relationship w/ son
- What can doctor do to help?



## Example 1: Team Actions/Results

- Doctor: Continued care for asthma and rash; referred patient to TFAP for housing assistance; wrote letter documenting medical impact of substandard housing conditions
- SW/Legal: DV counseling and patient advocacy at behavioral health clinic
- Legal: Landlord agreed to immediate cooler repair and pest treatment with subsequent mutual termination of lease. Mother and son moved to separate apts.

# Example 2: Barriers to Citizenship

- 45 year old Bhutanese refugee is deaf, mute and cognitively impaired. She communicates with her niece who cares for her through rudimentary gestures only.
- She recently lost SSI benefits because she is not a US citizen. Her niece told doctor they have no money for rent or food and don't know what to do.



# Example 2: Team Actions/Results

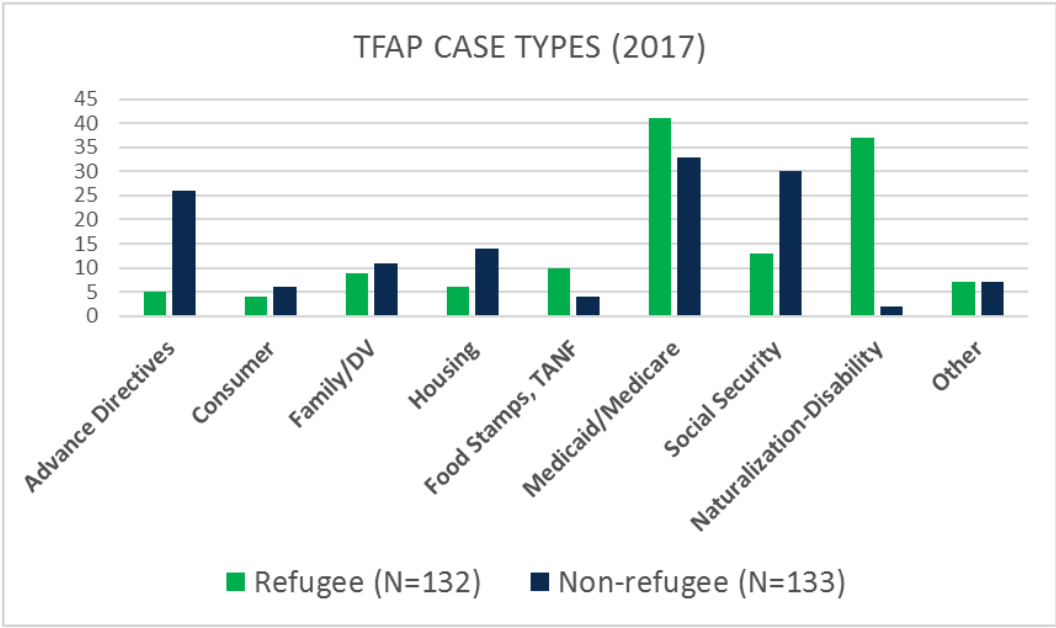
- Doctor had been trained on requirements for N648 forms and oath waiver and referred patient to TFAP
- TFAP
  - Consulted with doctor on waiver standards and provided sample forms
  - Referred niece for social service needs
  - Recruited private attorney to provide free guardianship representation
- Doctor completed N648, request for oath waiver, and guardianship papers
- Result: Niece became court appointed guardian and completed immigration process; Patient became US citizen; SSI reinstated

# TFAP Core Components

- Integrated medical-legal services
- Education
- Systemic advocacy
- Community partnerships



# TFAP Core Components: 1. Integrated Legal Services




66% reported physical or mental disabilities
50% arrived in US as humanitarian refugees

# TFAP Core Components: 2. Education

- 40 trainings for healthcare providers and community partners in 2017
- Over 500 individual medical-legal consults on legal issues impacting health






# TFAP Core Components: 3. Systemic Advocacy

Goal: Identify, prevent and/or address systemic issues impacting population health

Example 1:

- Improper change of AHCCCS for refugees to cover emergency services only
  - Retroactive restoration full benefits for 70 clients
  - Statewide restoration **for > 3500 refugees and system corrections** working with AHCCCS and Morris Institute for Justice

# TFAP Core Components: 3. Systemic Advocacy, cont.

Ex. 2: Barriers to citizenship for refugees with disabilities

- Loss of SSI benefits after 7 years in US unless citizen
  - Medical waiver of English/civics tests available for impairments that prevent learning
  - If unable to understand questions/oath, then USCIS representative or court appointed guardian required
- Education statewide for refugee providers
  - AZ Refugee Summit and resettlement agencies
- Pro bono guardianship services developed in Tucson
  - Partnership with SALA and identified attorneys



# TFAP Core Components: 4. Community Partnerships




Refugee 101 for Healthcare Providers
Trainings for Refugee Resettlement Agency staff
Advocacy curriculum for Camp Wellness participants

# Reaching Vulnerable Populations: Scope of Unmet Legal Needs

- 96% of patients referred to TFAP in 2017 had not sought legal help for their problem
- 100% had discussed health-harming legal needs with their healthcare provider
- MLPs help reach vulnerable individuals who would not otherwise access legal services necessary for health and well-being




Tucson Family Advocacy Program
Medical Legal Partnership for Health

## QUESTIONS?



# Contact Information

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**Arizona Commission on Access to Justice**
**MINUTES**
**Wednesday, November 14, 2018**
**10:00 a.m. to 2:00 p.m.**
**State Courts Building, 1501 W. Washington Street, Conf. Rm. 119A/B, Phoenix, AZ 85007**

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**Present:** Judge Lawrence Winthrop (chair), Kip Anderson, Mike Baumstark, Judge Thomas Berning *(telephonic)*, Judge Maria Elena Cruz, Kevin Groman, Judge David Haws, Judge Anna Huberman, Judge Joseph C. Kreamer, Maria Morlacci, John Phelps, Helen Purcell, Janet K. Regner, Dr. Kevin Ruegg, Valerie Wyant *(telephonic)*, Anthony Young

**Absent/Excused:** Judge Janet Barton, Pamela Bridge, Anni Foster

**Presenters/Guests:** Ann-Marie Alameddin, Cathleen Cole, Chris Groninger, Cheryl Kulas, Aaron Nash, Dr. Jessie Pettit, Anne Ryan, Lara Slifko

**Administrative Office of the Courts (AOC) Staff:** Theresa Barrett, Julie Graber, Kathy Sekardi

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## I. REGULAR BUSINESS

### A. Welcome and Opening Remarks

With a quorum present, the November 14, 2018 meeting of the Arizona Commission on Access to Justice (ACAJ) was called to order by Judge Lawrence F. Winthrop, chair at 10:07 a.m.

### B. Approval of Minutes

The draft minutes from the May 23, 2018, ACAJ meeting were presented for approval.

**Motion:** Judge Anna Huberman moved to approve the May 23, 2018, minutes, as presented. **Seconded:** Anthony Young. **Vote:** Unanimous.

## II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

### A. Chairperson's Report

Judge Winthrop reported on several access to justice topics with emphasis on collaborative community-based *pro bono* assistance.

- The poverty rate in Arizona is 15.5 percent, which is three points higher than the national rate. Arizona is ranked ninth in the nation behind Alabama, Arkansas, Georgia, Kentucky, Louisiana, Mississippi, New Mexico, and West Virginia.
- There are collaborative projects underway that involve access to justice issues, including a current State Bar task force to make proposals to assist senior lawyers facilitate *pro bono* legal services.

- A rule change petition will likely be filed in January by the Attorney Regulation Advisory Committee to rewrite Supreme Court Rule 38 regarding alternative pathways to the practice of law, legal service organizations, and attorneys who volunteer *pro bono* services. Included in that proposed rewrite are provisions to encourage retired and inactive lawyers to volunteer *pro bono* legal services.
- A new committee has been established, chaired by Justice Ann A. Scott Timmer, to study and make recommendations about expanding the use of court navigators, narrowing the definition of the unauthorized practice of law, and broadening the provision of allowable legal services by creating a new non-lawyer, legal professional.
- Judge Winthrop and Kevin Groman will be meeting with the Dean of the University of Arizona to discuss a potential collaborative project to enhance access to justice by leveraging technology.
- On January 22, Justice Bales and Judge Winthrop will be speaking at a public forum hosted by the University of Arizona which will focus on access to justice and the role that technology can play in connecting Arizonans with legal information.
- As required by the administrative order creating the Commission, a presentation on the Commission's activities this year will be given to the Arizona Judicial Council on December 13th.
- Electronic and hard copies of the new annual report are available to commission members if presenting to a group about access to justice.

**B. Report on the Modest Means Program**

Lara Slifko, Chief Resource Officer, Arizona Foundation for Legal Services & Education, provided background information and a current status on the modest means program.

- In 2009, 34 individuals were helped.
- In 2018, 2,298 individuals were helped.
- In the last ten years, approximately 10,000 individuals have been helped.
- The attorney's fee is $75 per hour.
- There are currently 157 modest means attorneys.

**Member comments:**

- Are modest means cases typically brief or do they go beyond the initial hour? Based on anecdotal information, the cases tend to require more than one hour.
- Are modest means attorneys covered under their own malpractice insurance? Malpractice insurance is required. If the attorney does not have coverage of their own, he or she is covered under the Bar Foundation's policy for the modest means clients only.
- Do modest means attorneys tend to be newer or more experienced attorneys? Attorneys are usually more experienced.

**C. Arizona State Bar Public Service Center**

Cheryl Kulas, manager, State Bar of Arizona's Public Service Center, updated members on the Find-a-Lawyer platform since launching on May 1, 2018. Ms. Kulas reviewed some bar-wide attorney statistics and totals to date:

- Attorneys who will be matched with projects: 10,760
- 80.22 percent of attorneys who will be matched with projects have paid project notifications on.
- 75.42 percent of attorneys who will be matched with projects have included notification of potential *pro bono* projects.

Since May 1, there have been:

- 3,480 registered clients
- 2,525 projects posted (2,149 fee projects and 376 *pro bono* projects)
- 4,025 attorney applications
- 233 upgraded premium accounts (attorneys who have paid the annual fee)

Responses to projects posted are usually made within 36 hours. Attorneys can see how many applications have been made for a project in real time. If an application has been accepted by the client, the client deactivates the project. There is no cost for the public and for attorneys with *pro bono* project notifications on. The annual $300 subscription fee is only for attorneys choosing to connect with paying clients. The fee subsidizes the development and maintenance of the platform. While the number of premium accounts is low, the goal is to build good cases in the platform without overwhelming the system. In the breakdown of cases, 69 percent of fee projects received applications and 40 percent of *pro bono* projects received applications. As part of the monitoring efforts, projects can also be reposted to a new pool of attorneys if the projects do not get any applications.

John Phelps stressed that the platform is a safe harbor for lawyers by matching profiles to a service provider within the ethical constraints of the professional rules. The platform also provides consumer protection for the public by ensuring that the lawyer is in good standing with the State Bar and discipline records are transparent. The platform is not about bidding low to get a client, but rather, it provides additional marketing leads and filters cases to attorneys.

The program has been in its first phase focusing on getting the platform up and running, and developing manual letters, mostly for *pro bono* cases, as a stop gap to give clients access to more information and if a case is not matched. The upcoming second phase will consist of a traditional and digital marketing push to the public, ongoing recruitment of attorneys, and distribution of branded materials to give an image to the program.

**Member comments:**

- In response to a question regarding user feedback, Ms. Kulas noted that surveys will be conducted shortly to ensure clients are satisfied with the movement of their cases and the platform is fulfilling its purpose.

- Limited scope representation materials should be provided in the platform to subscribing attorneys.
- Information could be included in the manual letters about the Access to Justice Online Intake System to ensure individuals are not lost in the platform.
- Legal aid providers and other partners should include a link to Find-a-Lawyer on their websites.
- The availability of this platform is a game changer because it covers either *pro bono*, modest means, or full price cases.

**D. Report on Rule Petitions**

Julie Graber, AOC staff, reported on pending and upcoming rule petitions.

**R-18-0020 –** Subsidized housing pleading requirements and disclosure requirements. At the August Rules Agenda, the Supreme Court adopted the rule petition, which is effective January 1, 2019. Ms. Graber presented a proposed complaint and proposed judgment and sought the commission's approval before finalizing and posting to the webpage.

**Motion:** Janet Regner moved to approve the revised complaint and judgment forms, as presented. **Seconded:** Anthony Young. **Vote:** Unanimous.

Ms. Graber also discussed a proposed rule petition pending filing from the State Bar of Arizona, which would require landlords to serve relevant documents, including the lease, with the complaint, and would continue to allow parties to request other relevant information.

**ACTION:** The SRL-LJC Workgroup will review the proposed rule petition once it is filed and provide feedback at the February commission meeting.

**E. Report from the Self-Represented Litigants in Limited Jurisdiction Courts Workgroup**

Judge Anna Huberman reported that the workgroup is continuing to develop eviction Legal Info Videos in English and in Spanish. In addition to the initial series of nine residential eviction videos, five mobile home and five recreational vehicle videos are being produced. At the last workgroup meeting, ten additional scripts were approved for production. Finally, four new Legal Info Sheets have been added to the redesigned webpages in English and Spanish.

**F. Update on Public Information and Messaging Workgroup**

Julie Graber, AOC staff, reported that the workgroup is in the process of reorganizing and discussed the status of web initiatives.

- A press release was issued on October 31, 2018, announcing the redesign of the English and Spanish Self-Service Centers on AZCourts.gov. Available resources have been increased and the way the information is organized and laid out was improved to make more user friendly. Special

attention was taken on creating a separate Spanish Self-Service Center that mirrors and equals the English one. There are over 400 forms posted in English and over 400 forms posted in Spanish that are generic in nature.

- Since the commission's establishment, many legal resources have been developed by the commission and its workgroups in a variety of formats. A new Legal Info Hub is being developed as the repository for the entire Supreme Court for Legal Info Podcasts, Legal Info Videos, Legal Info Sheets, and Legal Info FAQs. A Spanish Legal Info Hub will also be available. The target launch date is December 3, 2018.

**Member comments:**

- AZCourtHelp.org and other court websites should provide links to the Legal Info Hub when it goes live.
- A member recommended exploring social media sharing to easily spread the information.

**G. Report on the AZCourtHelp.org website**

Theresa Barrett, AOC staff, reported that Coconino County started holding the Family Law 101 Legal Talks in Spanish with the help of the Hispanic Bar Association. Ms. Barrett announced the addition of a second hub housed in Yuma County, and Yuma County Law Library recently received the Strategic Agenda Award for Goal 3: Improving Court Processes to Better Serve the Public. Finally, she noted the ongoing efforts to develop Spanish content.

Cathleen Cole, Arizona Foundation for Legal Services & Education, reviewed Google Analytics, search engine optimization, and enhanced features and content on AZCourtHelp.org. Ms. Cole demonstrated the new legal aid resource page, which directs individuals to a menu of available legal services, and the new traffic hub, which was developed in collaboration with limited jurisdiction subject-matter experts. A new quarterly newsletter will be published and distributed to partners, which will feature new content and latest statistics about AZCourtHelp.org.

**H. Report from the Judicial and Attorney Engagement Workgroup**

Judge Joseph Kreamer discussed the workgroup's efforts to promote judicial engagement, private attorney engagement, and public attorney engagement.

Judicial engagement: The plan is to develop a website with information about appropriate judicial engagement opportunities to let judicial officers know what is available and get the information to them. The workgroup has contacted former Judge Margaret H. Downie, executive director of the Commission on Judicial Conduct, to make sure the opportunities are indeed appropriate for judicial officers. Judge Kreamer also highlighted Judge Maria Elena Cruz's successful presentations to high school students regarding all parts of the judicial process, which could be expanded to schools on a statewide basis.

Public lawyer engagement: The workgroup has reached out to various agencies, including the Attorney General's Office and the Maricopa County Attorney's Office, to develop a *pro bono* partnership concept to engage public lawyers. In light of issues raised with a public *pro bono* policy, the workgroup settled on a plug-and-play programmatic approach where public lawyers can connect to existing programs hosted by the Bar Foundation that do not have potential conflict issues. This concept was approved by agency decision-makers. The next step is to work out the details and identify specific opportunities that are deemed acceptable. The goal is to bring public officials on board to endorse and promote participation.

Private attorney engagement: At the next workgroup meeting, the workgroup will discuss developing a strategy to engage law firms as a follow up to the earlier survey conducted.

John Phelps briefly discussed a report from the Institute for Advancement of the American Legal System about using unbundled legal services to fill the access gap.

**I. Report from the Inter-Governmental Collaboration Workgroup**

Judge Winthrop updated members on Arizona's continued participation in the Justice in Government Project. Chris Groninger, Chief Strategy Officer, Arizona Foundation for Legal Services & Education, announced that the Bar Foundation recently received a two-year $1.1 million federal VOCA Vision 21 grant to improve technology services for all Arizona victims of crime, including victims of domestic violence, elder abuse and consumer fraud, who are having issues accessing services. Judge Winthrop discussed an article in The Arizona Republic on the Governor's Second Chance Centers and how providing legal aid resources reduces barriers for those who have criminal records. He also reviewed a fact sheet developed by Karen Lash on how civil legal aid assists those affected by the opioid crisis.

**J. Presentation of the St. Vincent de Paul Legal Clinic**

Ann-Marie Alameddin, St. Vincent de Paul Legal Clinic, provided background information on the St. Vincent de Paul Legal Clinic, which is based on a variation of the medical-legal partnership model and housed in the medical clinic at St. Vincent de Paul in the family ministry's office. In partnership with the law firms of Jennings Strouss and Gallagher & Kennedy, the 100 percent *pro bono* staffed legal clinic provides access to free legal services for those in need in the areas of immigration, consumer, landlord/tenant, and family law on the third Thursday of the month in a dining hall for 90 minutes. There are no eligibility, residency or income requirements. A general advice attorney and an immigration attorney are always available. Ms. Alameddin noted that it would be helpful if the legal clinic could tie into the greater resources available for volunteer attorneys since the volunteers have day jobs.

**Member comments:**

- The Bar Foundation could be a place for groups to meet, share information, and coordinate referral opportunities.
- Members identified the legal clinic as a good example of community lawyering and praised its valuable work. In addition, members felt this model should be replicated.

**K. Presentation of the Tucson Family Advocacy Program (TFAP), a Medical Legal Partnership for Health**

Anne Ryan, director, and Jessie Pettit, M.D., medical director, Tucson Family Advocacy Program (TFAP), provided an overview of its medical-legal partnership, which is embedded with the University of Arizona's Family Medicine's Residency Programs, and teaches healthcare providers about legal barriers to patient health and how providers can become more effective advocates for their patients. Dr. Pettit pointed out that while quality medical care alone cannot always improve patient health, many acute and chronic diseases are exacerbated by the stress of poverty. She illustrated how the multi-disciplinary team approach, which is centered on building a healthcare team able to identify, treat, and prevent health-harming legal needs for patients, in turn benefits providers, attorneys, and patients.

Ms. Ryan described the program's core components: integrated medical-legal services, education, systemic advocacy, and community partnerships. She reviewed 2017 case types, which focused on access to health care, public benefits, naturalization, disability-related matters, housing, and advance care planning, divided between refugee and non-refugee cases. The education component stresses the importance of providers being good advocates for patients. Ms. Ryan illustrated how systemic issues can be addressed through advocacy for individual patients and in the community in areas such as access to healthcare for refugees and citizenship for refugees with disabilities. As part of community partnerships, outreach and trainings are done with refugee resettlement agencies. The program reaches vulnerable patients who otherwise would not access the medical and legal services they need to prevent or resolve crises that undermine health.

**Member comments:**

- Members applauded the great work and impact of the program, which is a great example of community-based *pro bono* assistance.
- In response to a suggestion about including the program on the Ref-Aid mobile app, Ms. Ryan clarified that it does not advertise and relies only on referrals from health care providers.

## III. OTHER BUSINESS

**A. Good of the Order/Call to the Public**

None present.

**B. Next Meeting Date**

Wednesday, February 13, 2019
10:00 a.m. to 2:00 p.m.
State Courts Building, Room 119
1501 W. Washington Street
Phoenix, AZ 85007

Adjourned at 2:01 p.m.