



Responses in the States to Cuts in Legal Services Funding

Knowledge & Information Services

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By: Anne Endress Skove

Re: Responses in the States to Cuts in Legal Services Funding

Introduction

The Information Service was asked to provide information about state reactions to cuts in federal funding for legal services. This question involves several issues: alternative funding sources, pro bono incentives, “low-bono” services, and pro se programs. Materials cited in this memorandum demonstrate the progress made by states in these four areas.

The effects of cuts in federal funds and restrictions on Legal Services Corporation (LSC) grantees are widespread. In practice, the effects may include turning away cases, downsizing, and reducing the scope of legal help. For example, legal services lawyers or paralegals might only be able to help clients draft briefs or proceed pro se rather than providing full representation. Potential clients might be screened for indigency more thoroughly, or the standard for indigency might be made more strict.

Legal Services organizations are seeking new sources of funding to replace lost revenues. Promising sources include:

- Increased filing fees (Cook County, Illinois, e.g.)
- Taxes on bar association dues
- State funds and grants
- Interest On Lawyer Trust Account (IOLTA)

Some state funds and grants are administered by the state’s Administrative Office of the Courts (AOC). Arkansas has a bill to this effect (SB 489). Kentucky legal services receives \$500,000 from the state’s General Fund.

IOLTA funds are a traditional source of funding for legal services. IOLTA funds are handled differently in every state. Participation in IOLTA can be mandatory or opt-in, and funds may be administered by different organizations.

An LSC grantee that seeks alternative funding sources is still restricted by 45 CFR §1610, Use of Non-LSC Funds (March 14, 1997). This interim rule restricts LSC grantees, even in their use of non-LSC funds, “to ensure that no LSC-funded entity engages in restricted activities” (62 FR 12101):

A recipient [of LSC funds] may receive public or IOLTA funds and use them in accordance with the specific purposes for which they were provided, if the funds are not used for any activity prohibited by or inconsistent with Section 504 [restrictions on recipients of LSC funds]

The use of private funds by LSC grantees is restricted similarly by §1610.4(c). The LSC regulations are being challenged in court. Contact the [Brennan Center for Justice](#) for more information.

The following articles examine alternative funding sources and long-term support strategies for legal services:

- [The SPAN Update: A Guide to Legal Services Planning](#). ABA and NLADA, vol. II, no. 1, January 1997. This comprehensive state-by-state guide to legal services is the best source to date.
- Barringer, David. “**Downsize.**” ABA Journal (July 1996):at 60, examines the effects of funding cuts on legal services.
- Newberry, Jon. “**Temporary Reprieve for the LSC.**” ABA Journal (December 1995): 18.
- Curriden, Mark. “**LSC Grantees Plot Ways to Stay Alive.**” ABA Journal (December 1995): 18.
- Stapleton, M.A. “**5% Add-on Fee for Civil Filings to Fund Legal Aid Garners Support.**” Chicago Daily Law Bulletin (October 12, 1995): 1. Several states have considered or are using filing fees to support legal services. This article examines an example of such use.
- Chaleff, Gerald L. “**Funding for Legal Services Organizations: The Economic Recession Has Eroded Traditional Bases of Support.**” Los Angeles Lawyer (November 1993): 11. This article examines IOLTA and other traditional funding sources.

Pro Bono Incentives

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One way to respond to legal services funding cuts is to encourage or require lawyers to do pro bono work. Bar associations, particularly young lawyer sections, as well as student and public interest groups actively promote pro bono work. Examples of such promotion include:

- Voluntary or mandatory pro bono goals set by bar associations and/or private firms
- Making volunteer opportunities more accessible to lawyers
- Loan assistance programs that encourage law students to enter public interest careers
- Federal programs (AmeriCorps, National Service Legal Corps, e.g.)
- Offering CLE credits and training in return for pro bono services

The following articles discuss various pro bono incentives:

- [Volunteer Legal Services Hawai'i](#)
- Dowling, Michael J. “**Private Firms Pick Up Public Agencies’ Slack.**” New Jersey Law Journal (July 17, 1995): 20. Many private firms have self-imposed pro bono commitments.
- Thrower, Susan E. “**A Commitment to Pro Bono**” Professional Lawyer (May 1995): 2.
- Bruno-Smith, Lynn. “**Young Lawyers Link with Local Legal Aid Entities to Alleviate Unmet Civil Legal Needs in Ohio.**” Ohio Lawyer (January/February 1995): 11.

- Jones, Jarvis Cedric. **“Mandatory Pro Bono or ABA Model Rule 6.1?”** Hennepin Lawyer (January-February 1995): 3. This article calls for mandatory pro bono, which has not been implemented or accepted on a widespread basis.
- Pulju, Kay. **“The New Face of Pro Bono: An Update on Access To Justice, ‘Low Bono’ And The New Emeritus Rule Changes.”** Oregon State Bar Bulletin (January 1995): 19.
- Hoye, William P. **“High Cost of Doing Good: More Law Grads Would Enter Public Service with Loan-Forgiveness Plan.”** ABA Journal (January 1995): 96. [Equal Justice Works](#) also has information about how law schools can assist students and recent graduates who want to enter public service careers.
- Smith, Melinda. **“Collective Satisfaction: A Viable Alternative?”** Texas Bar Journal (December 1994): 1228. This article examines ways in which firms may meet the pro bono goals of individual members.
- Ianniello, Antonia B., and Barbara K. Kagan. **“Providing Non-Legal Assistance.”** National Law Journal (August 22, 1994): B8.
- Fletcher, Paul. **“New Ethics Goal: 2% for Pro Bono.”** Virginia Lawyers Weekly, vol. IX no. 3, (June 27, 1994): 1. This is a typical state bar standard.
- Galanter, Marc, and Thomas Palay. **“Let Firms Buy and Sell Credit for Pro Bono.”** National Law Journal (September 6, 1993): 17.
- Millemann, Michael. **“Mandatory Pro Bono in Civil Cases: A Partial Answer to the Right Question.”** Maryland Law Review, vol. 49, no. 18 (1990): 18.

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“Low Bono” Services

Legal services cutbacks resulted in tighter eligibility requirements and fewer cases, creating an increase in the need for “low bono” services. “Low bono” legal services accommodate people who cannot afford to retain a lawyer but who do not qualify for legal services. A range of services falls under the “low bono” umbrella, including:

- One-time referrals or assessments provided for a set fee
- Legal seminars for the public on a certain issue, such as divorce
- Firms providing assistance for a reduced fee to clients who meet certain economic standards
- Legal assistance programs for specially situated people, such as the elderly

The following materials contain information about “low bono” services:

- Molvig, Dianne. **“Growing Solutions to ‘Unmet Legal Needs.’”** Wisconsin Lawyer (August 1996): 10.
- **“The Reduced Fee Panel...Bridging the Gap of Unmet Legal Needs,”** by Wm. Kerry Skaggs, Nevada Lawyer, (June 1995): 18.
- **“Innovative Programs to Help People of Modest Means Obtain Legal Help.”** ABA report, 1995. This is a state-by-state list of programs that provide legal services.

- Smith, Amy. “**Hunton & Williams Church Hill Office Going Strong.**” Virginia Lawyer (February 1995): 44. This is another example of a private firm with a pro bono program. To be eligible, clients must meet certain economic standards.
- Weidlich, Thom. “**Program Fills Gap in Legal Aid.**” National Law Journal (July 4, 1994): A4.

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Pro Se Litigation

Another result of under-funded legal services is an increase in pro se litigation. Not all pro se litigants are indigent. However, without affordable access to legal services, more people proceed pro se.

Pro se litigants often exacerbate caseflow problems. At issue is how courts can cope with the problems that pro se litigation causes. The following materials discuss pro se issues:

- Daniszewski, Robert M. “**Coping with the Pro Se Litigant.**” New Hampshire Bar Journal (March 1995): 46.
- Nagle, Jerry. “**Pro Se Litigation and its Impact on the Courts,**” (IS 95.0724), Williamsburg, VA: National Center for State Courts, February 22, 1995.
- Rottman, David, and John Goerd. “**Self-Representation in Three Court Forums: An Empirical Examination.**” (1993) Please note that the statistics have been updated by the attached information. Information in this paper has since been published elsewhere; do not cite to the paper.

Another state initiative is Maryland’s Pro Se Forms Hotline. The Pro Se Forms Hotline is a toll-free telephone service established by the Maryland Judiciary and the Women’s Law Center, Inc., to assist pro se litigants in the completion of standardized form pleadings in family law cases. For more information, please contact:

[Administrative Office of the Courts](#)

Maryland Judicial Center
580 Taylor Avenue
Annapolis, MD 21401
tel.: (410) 260-1290

A pilot project in Washington state involves the use of a courthouse facilitator, who helps unrepresented individuals navigate the legal system. For more information please contact:

Columbia Legal Services
101 Yesler Way, Suite 300
Seattle, WA 98104
206-464-5911
800-542-0794
206-464-1518 (TDD)

Several counties in Washington state now have a courthouse facilitator

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General Sources

For more information about state responses to legal services cutbacks, contact:

[American Bar Association](#)

Standing Committee on Pro Bono & Public Service

[Center for Pro Bono](#)

541 North Fairbanks Court
Chicago, IL 60611-3314
(312) 988-5774
fax: (312) 988-5032
jonesw@staff.abanet.org

[Brennan Center for Justice](#)

NYU School of Law
161 Avenue of the Americas, 12th floor
New York, NY 10013
(212) 998-6730
fax: (212) 995-4550
brennan.center@nyu.edu

[National Legal Aid and Defender Association \(NLADA\)](#)

1625 K Street NW, Suite 800
Washington, DC 20006-1604
(202) 452-0620
info@nlada.org

Other good sources include local bar associations, law school legal clinics, public interest groups, and local legal services organizations.

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State Materials

[AZ](#) :: [AR](#) :: [CA](#) :: [CO](#) :: [CT](#) :: [FL](#) :: [HI](#) :: [IL](#) :: [KY](#) :: [MD](#) :: [MA](#) :: [MI](#) :: [MN](#) :: [NV](#) :: [NH](#) :: [NJ](#) ::
[NM](#) :: [NY](#) :: [OH](#) :: [OR](#) :: [PA](#) :: [TX](#) :: [VA](#) :: [WA](#) :: [WI](#) ::

Arizona

Sharp, Noreen L. “**Creating Win-Win for the Public and the Profession: Improving Access to Judicial, Legal and Social Services.**” Arizona Attorney (December 1994): 12. This article describes the Self-Service Center in Maricopa County, Arizona.

Sallen, Patricia A. “**Pro Bono Option: A Check (Mark) That’s Good For Everyone.**” Maricopa Lawyer (March 1993): 3. The Maricopa County Bar Association’s (MCBA) Pro Bono Option program encourages attorneys selected as arbitrators in mandatory arbitration cases assign their fees to the MCBA in order to claim the amount of time they spent as an arbitrator as pro bono hours.

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Arkansas*

“**Arkansas Bar Association’s 1997 Legislative Package: State Funding for Legal Services,**” Arkansas Lawyer (Winter 1997): 46.

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California

Berg, Martin. “**One-third L.A. Legal Aid Staffers Let Go After Federal Funding Cuts.**” Legal Aid Foundation of Los Angeles, Los Angeles Daily Journal, vol. 108, no. 164 (August 29, 1995): 1.

Stein, Paul. **"Dysfunctional Family Court: A Pilot Project Tries To Help The Flood of Litigants Who Can't Afford Lawyers Navigate The Thicket of Family Law."** The Recorder, July 14, 1994: 1.

Northington, Suzanne. **"Pro Per Behavior: Filings in Pro Per Are up--Way up--in Family Court."** California Lawyer (May 1994): 29.

Park, Won H. **"The Barristers Domestic Violence Project: Volunteers Help Abuse Victims Obtain Aid from the Judicial System."** Los Angeles Lawyer (March 1994): 11.

Chaleff, Gerald L. **"Funding for Legal Services Organizations: The Economic Recession Has Eroded Traditional Bases of Support."** Los Angeles Lawyer (November 1993): 11.

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Colorado

Salazar, JoAnn Viola. **"Examining Pro Bono in Colorado."** Colorado Lawyer (May 1994): 1049.

Hoagland, Donald W. **"Community Service Subcommittee."** Colorado Lawyer, vol. 22, no. 2 (February 1993): 246. This article outlines efforts of the Colorado Bar Association's Community Service Subcommittee to encourage pro bono work. The value of community service and debt relief for young lawyers is noted.

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Connecticut

Schatzki, Georg. **"The Survival of legal Services for the Poor in Connecticut."** Connecticut Bar Journal, vol. 70, no. 5: 313.

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Florida

[Pro Se Assistance Programs](#). This is a brief listing of programs and contacts in the Clearwater and St. Petersburg area.

Fraser, Denny. **"Legal Services Faces Cutbacks: Gesturing in Congress Threatens Area Agency."** Tampa Bay Lawyer (February 2, 1995).

Bongard Stremmer, Alexandra, and Constance Shehan. **Florida Pro Se Dissolution Clinics: Representation for the Poor.** February 1994. The report examines pro se dissolution clinics operated by Legal Aid and Legal Services programs in Florida counties.

Fierro, Eugene J. **"Put Something Back': A Primer on Attorney Pro Bono Services."** Court Review, vol. 30, no. 2 (Summer 1993): 24. This article examines Dade County's "Put Something Back" voluntary pro bono program.

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Hawaii

[Volunteer Legal Services Hawai'i](#)

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Illinois

Stapleton, M.A. "**5% Add-on Fee for Civil Filings to Fund Legal Aid Garner Support.**" Chicago Daily Law Bulletin (October 12, 1995): 1.

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Kentucky*

Geiger, Bob. "**Poor Finding Legal Help Harder to Get.**" Lexington Herald-Leader.

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Maryland

Administrative Office of the Courts. **The Pro Se Forms Hotline.** Baltimore: Administrative Office of the Courts, April 3, 1995. This summary explains the Pro Se Forms Hotline project in Maryland.

"**Pro Bono: Maryland Attorneys Divided.**" National Law Journal (January 18, 1993). This article addresses whether Maryland's volunteer program meets the needs of the community.

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Massachusetts

Dahl, Dick. "**Low-Cost Law For The Masses.**" Massachusetts Lawyers Weekly, vol. 21, no. 361 (November 9, 1992): 39. This article describes low-cost group-based legal services for people who would otherwise face difficulty in obtaining legal services.

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Michigan

State Court Administrative Office. **Pro Se Forms and Instruction Packets: Providing Improved Access to Michigan Courts, final report.** Lansing, MI: State Court Administrative Office, November 4, 1994. (KFM4730 .A65 P76 1994) Sample copies of pro se forms and instructions are included in the report.

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Minnesota

Jones, Jarvis Cedric. "**Mandatory Pro Bono or ABA Model Rule 6.1?**" Hennepin Lawyer (January-February 1995): 3. This is an argument for the controversial mandatory pro bono requirement.

"**Reduced-Fee Panel Considered to Serve State's Low-Income Clients,**" Minnesota State Bar Association in Brief (September 1992): 1.

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Nevada

Skaggs, William Kerry. "**The Reduced Fee Panel...Bridging the Gap of Unmet Legal Needs.**" Nevada Lawyer (June 1995): 18.

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New Hampshire*

Daniszewski, Robert M. **"Coping with the Pro Se Litigant."** New Hampshire Bar Journal (March 1995): 46.

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New Jersey

Dowling, Michael J. **"Private Firms Pick Up Public Agencies' Slack."** New Jersey Law Journal (July 17, 1995): 20.

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New Mexico

Jones, Patti. **"In the Public Interest: New Mexico Lawyers Care Program Gains National Attention."** Bar Journal (January/February 1996): 5. In response to LSC cuts, New Mexico lawyers created a volunteer pro bono project. The project is responsible for over 1000 pending cases, substitute counsel for some cases, mentoring for volunteer attorneys, and a community service program that teaches people how to proceed pro se.

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New York*

Spencer, Gary. **"Legal Aid Groups Excluded from Interim Budget."** New York Law Journal, vol. 215, no. 65 (April 4, 1996): 1.

Goldstein, Matthew. **"12 bidders seek to displace legal aid: proposals to be screened by city agency by Jan. 17."** New York Law Journal, vol. 215, no. 6 (Jan 9, 1996): 1.

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Ohio

Legal Aid Society of Columbus. **"Legal Aid Society Strives to Survive in Era of Serious Funding Cutbacks."** Daily Reporter (May 10, 1996).

Bruno-Smith, Lynn. **"Young Lawyers Link with Local Legal Aid Entities to Alleviate Unmet Civil Legal Needs in Ohio."** Ohio Lawyer (January/February 1995): 11.

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Oregon

Pulju, Kay. **"The New Face of Pro Bono: An Update on Access To Justice, 'Low Bono' And The New Emeritus Rule Changes."** Oregon State Bar Bulletin (January 1995): 19.

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Pennsylvania

Johnston, Stephanie J. **"Legal Peace Corps' Offers Help to Public Interest Firms."** Bar Leader (January-February 1994): 15.

Brock, Stephan F. "**Pro Bono: Pennsylvania's Model Plan.**" Pennsylvania Lawyer (July 1993): 15.

Benson, Edith "**Pro Bono: The Legal Services Perspective**" Pennsylvania Lawyer (July 1993): 16.

Schetroma, Russell. "**Pro Bono: The Private Practitioner's Perspective**" Pennsylvania Lawyer (July 1993): 16.

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Texas

"**State Bar of Texas Adopts Pro Bono Plan.**" Texas Bar Journal (July 1996): 612.

Smith, Melinda. "**Collective Satisfaction: A Viable Alternative?**" Texas Bar Journal (December 1994): 1228. This article examines ways in which firms may meet the pro bono goals of individual members.

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Virginia

Bralley, Mark D. "**A Call to Lawyers in Virginia: Fighting a Decline in Income Caused by Low Interest Rates, the IOLTA Program Aims for 100 Percent Lawyer Participation.**" Virginia Lawyer (February 1997): 43.

Smith, Amy. "**Hunton & Williams Church Hill Office Going Strong.**" Virginia Lawyer (February 1995): 44.

Fletcher, Paul. "**New Ethics Goal: 2% for Pro Bono.**" Virginia Lawyers Weekly, vol. IX no. 3 (June 27, 1994): 1.

Hettrick, George H. "**Doing Good: How One Law Firm Started a Low-Fee Branch Office to Help Those in Need.**" ABA Journal (December 1992): 77. This article describes Hunton & Williams's Church Hill office.

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Washington*

Warren, Gordon H. "**Courthouse Facilitators Help Pro Se Litigants Navigate Maze.**" Bar Bulletin (May 1996): 67. About half of the domestic relations cases filed in King County, Washington, proceed pro se through the Courthouse Facilitator program. Several counties in Washington participate in the program. Revenue is generated by a surcharge on filing fees.

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Wisconsin

Molvig, Dianne. "**Growing Solutions to 'Unmet Legal Needs.'**" Wisconsin Lawyer (August 1996): 10.

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