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BRENNAN CENTER FOR JUSTICE

at New York University School of Law



Each week, the Brennan Center for Justice at NYU School of Law publishes the Legal Services E-lert, reaching a wide audience with the most important articles on civil legal aid and access to justice for low-income people.

ANNOUNCEMENTS

Call for Stories About People Unable to Get Court Interpreters in Civil Cases

Do you have clients with limited proficiency in English who have been forced to proceed in a civil case without an interpreter? Or do you know of a local court where there are a high proportion of people with limited proficiency in English, and few or no interpreters in civil cases? If so, let us know. The Brennan Center is working with reporters interested in telling the story about how the lack of language interpreters in civil cases hurts people and families.

If you have leads to share, please contact Laura Abel at laura.abel@nyu.edu or 212.998.6737.

THIS WEEK'S HEADLINES

- 1. President's Recommendation to Congress: Lift Three LSC Restrictions and Increase LSC's Funding**
- 2. Over 100 Kids Obtained Help Getting into Special Ed Programs Last Year, Thanks to Double-Team by Doctors and Lawyers in Community Advocacy Program in Cleveland**
- 3. Grant Applications "At Nearly Four Times" HUD's Available Funds May Cause Legal**

Aid Society of Santa Clara County to Lose Funding and Cut Housing and Foreclosure Services

4. Swine Flu and Other Pandemics Could Threaten Immigrants' Rights, Worries Legal Aid Attorney

5. With Further Cuts Expected, LSC-Funded Southern Arizona Legal Aid Freezes Hiring; Legal Aid Sees Increased Demand for Assistance in Child Support and Bankruptcy Cases

6. Cuts in Federal Interest Rate "Gut" IOLTA Funds, Compelling Legal Services Providers in Missouri to Plan Service Cuts

THIS WEEK'S STORIES

FEATURE STORY

1. President's Recommendation to Congress: Lift Three LSC Restrictions and Increase LSC's Funding

The Obama Administration, in its budget released yesterday, May 7, 2009, called for the removal of select draconian restrictions on civil legal aid for the poor that are depriving countless families of equal access to justice. The President's Budget recommends that Congress remove three of the thirteen-year-old funding restrictions imposed on independent legal aid organizations that receive part of their funding from the federal Legal Services Corporation (LSC).

Specifically, the President's Budget proposes that Congress permit states, local governments and private donors to decide how their contributions to LSC recipient organizations will be spent. Currently, LSC recipients are subjected to a uniquely harsh "poison pill restriction" that ties up all the funds of an organization once it receives its first dollar of LSC funds. Nationally, this poison pill restriction ties up as much as \$490 million in state, local, private and other non-LSC funds.

The President also proposes that Congress put legal aid attorneys on equal footing with all other attorneys by permitting them to seek attorneys' fee awards when they have proven their case and when an underlying consumer protection, civil rights or other law authorizes the award. Any fees collected from a wrongdoer in the litigation would, in turn, fund the representation of more individuals in need.

Lastly, the budget also proposes that legal aid attorneys be permitted to participate in class actions on behalf of their clients. Class actions are sometimes the most efficient way to help groups of individuals, for example, those victimized by predatory lenders, foreclosure rescue scams, or other fraudulent activities.

In addition to lifting these three restrictions, the President's budget seeks a \$45 million increase in funding for LSC for FY 2010, which, if implemented, would bring the total funding level to \$435 million, up from \$390 million in FY 2009.

On Monday, May 4, 2009, the Brennan Center, along with over 60 leaders in the access to justice, civil rights, and faith-based communities, sent a [letter](#) urging Congress to lift the most onerous LSC restrictions, including the three specific restrictions that the President's budget recommends be lifted.

To read the letter, [click here](#). For more information on the restrictions and the changes that have been requested, [click here](#).

[Click here](#) to read the portion of the President's budget, set forth in the appendix section on "Other Independent Agencies," which contains the guidance on LSC funding and restrictions.

LEGAL SERVICES ACTIVITIES AND ACHIEVEMENTS

Health

2. Over 100 Kids Obtained Help Getting into Special Ed Programs Last Year, Thanks to Double-Team by Doctors and Lawyers in Community Advocacy Program in Cleveland

Thomas Ott, "[Doctors, Lawyers Team Up to Help Special Needs Children](#)," The Plain Dealer (OH), April 28, 2009

The Plain Dealer states: "Doctors and lawyers are double-teaming the Cleveland schools' special-education office. MetroHealth Medical Center pediatricians who suspect that their low-income patients suffer from learning disabilities are referring families to [LSC-funded] Legal Aid [Society of Cleveland] lawyers with offices in the hospital and three neighborhood health centers. The lawyers then pressure the school district to provide what can be costly services. The collaboration, known as the Community Advocacy Program, began in 2002 but gained momentum as it added sites and attorneys. The advocacy program took on 117 special-education and other school cases last year, up from 37 in 2006. Up to three-fourths of the cases involved the Cleveland schools Demand . . . has swamped the three Legal Aid education lawyers, forcing two to temporarily stop taking new cases early this year The Community Advocacy Program helps poor people of all ages with a variety of legal issues that pile up and make it hard to lead healthy, productive lives. Special education is probably the No. 1 concern, but lawyers also handle tasks such as appealing denial of Medicaid eligibility, and hounding landlords to clean up mold and lead paint."

Housing

3. Grant Applications "At Nearly Four Times" HUD's Available Funds May Cause Legal Aid Society of Santa Clara County to Lose Funding and Cut Housing and Foreclosure Services

Diane Solomon, "[Poor People's Law](#)," MetroActive (CA), April 30, 2009

MetroActive reports: "Each year, the city of San Jose's Department of Housing gets money from the U.S. Department of Housing and Urban Development's Community Development Block Grant Program. Nonprofits like [Legal Aid Society of Santa Clara County (LAS)] request grants from this fund for housing-related needs. In March, the housing department issued its funding

recommendations. With applications for grants at nearly four times the available funds, a dozen organizations' projects were rejected by city staff. Dwindling funding sources and low reserves forced city staffers to knock out groups like the Support Network for Battered Women, the Indian Health Center and the LAS's housing counseling programs. Unless Tony Estremera, Legal Aid's lead attorney, can convince the City Council to do otherwise, come July 1 clients . . . will be turned away He says that for 18 years, the city's CDBG funding has supported Legal Aid's housing counseling programs and helped more than 100,000 people resolve landlord-tenant disputes and foreclosure problems by providing them with information, counseling and legal representation 'No one else does what we do,' [says LAS Fair Housing paralegal Janice Carolina Noble] 'There's Bay Area Legal, but because they receive federal funds their clients must be very low-income and they must be documented,' says Noble."

Immigrants and Migrants

4. Swine Flu and Other Pandemics Could Threaten Immigrants' Rights, Worries Legal Aid Attorney

Mark A. Cohen, "[Justice in a Time of Pandemic](#)," Minnesota Lawyer, May 4, 2009

Minnesota Lawyer writes: "Swine flu - or some other pandemic - spreads like wildfire throughout Minnesota, plunging the state into a public health crisis. People are terrified of infection, and the governor begins taking broad steps to reassure them, including shutting down many public buildings. The commissioner of public health immediately begins isolating or quarantining individuals and groups at risk of having the dreaded disease. Who is going to protect the due-process rights of those locked away by those orders? While Legal Services lawyers will not be involved in isolation and quarantine representation, just the threat of a pandemic coming to the area could have an impact on their clients, including immigrants who may be subject to a backlash and disabled individuals who may be particularly vulnerable to disease. Swine flu, for example, is more widespread in Mexico right now, so Hispanic immigrants might find themselves subject to increased incidents of bias. Kathleen Davis of Mid Minnesota Legal Assistance is concerned the specter of a pandemic may create even bigger problems for the immigrant community. 'There could be a backlash against any immigrant,' she warned. Davis also acknowledged that constitutional issues tend to crop up during times of public crisis and a pandemic would be no exception. She pointed out that Legal Services has a role to play in helping the community to deal with these issues."

LEGAL SERVICES STRUCTURE

Funding

5. With Further Cuts Expected, LSC-Funded Southern Arizona Legal Aid Freezes Hiring; Legal Aid Sees Increased Demand for Assistance in Child Support and Bankruptcy Cases

Adam Curtis, "[Ax Hits Legal Aid, Often Last Hope](#)," The Arizona Daily Star, May 4, 2009

The Arizona Daily Star states: "The economy is pushing more people to seek free legal advice at a

time when legal-aid organizations nationwide are being forced to reduce services. Facing a significant loss in funding and an increase in operating costs, [LSC-funded] Southern Arizona Legal Aid imposed a hiring freeze in January 2008, said Executive Director Anthony Young. It has not replaced nine staff members, including six lawyers. The freeze was an attempt to stay ahead of an anticipated decline in revenue from a trust fund supported by lawyers. Dropping interest rates cost the agency \$100,000 in 2009, with more losses expected in 2010. The 2009 loss was offset by a 9 percent increase from Legal Services Corp., the federal fund that is Legal Aid's largest revenue source. But with further cuts in state funding likely, the federal increase may not be enough to avoid further cuts, Young said Legal Aid has had to turn more people away, and it even stopped accepting new cases briefly at the end of 2008. The organization also has been forced to offer less legal service to most clients, and it provides direct representation on fewer cases, Young said Demand is always high for the domestic-relations unit [which handles divorce and support issues], he said, but the economy has sent it even higher, as evidenced by a significant rise in requests to reduce child support Bankruptcy filings overall have doubled since [last May], [Attorney Beverly] Parker said Bankruptcy is often the best way to prevent foreclosure, she said. Many people get pushed into foreclosure when they are sued by a creditor and are forced to pay court-ordered garnishments. Garnishments, which typically drain 25 percent of a debtor's paycheck, are often what pushes families over the edge into homelessness, she said. 'We will file an action if it can stabilize their living circumstances.'"

Interest on Lawyers' Trust Accounts

6. Cuts in Federal Interest Rate "Gut" IOLTA Funds, Compelling Legal Services Providers in Missouri to Plan Service Cuts

Adam Jadhav, "[Fed Rate Cuts Hamstring Legal Aid Groups](#)," St. Louis Post-Dispatch, May 1, 2009

St. Louis Post-Dispatch reports: "Because of the Fed's rate cuts, the IOLTA foundation accounts across the country are projecting steep losses. In 2008, the Missouri Lawyer Trust Account Foundation collected \$2.3 million from state accounts. This year, revenue is expected to be down almost 50 percent to about \$1.2 million. The Lawyers Trust Fund of Illinois is in even worse shape: the \$17 million collected in 2008 could drop 70 percent to \$5 million this year and as little as \$1 million in 2010. 'Quite simply, the interest we earn on those accounts has been gutted,' said Ruth Ann Schmitt, the Illinois fund's executive director This fiscal year, the IOLTA funding made up 35 percent of [LSC-funded] Land of Lincoln [Legal Assistance Foundation]'s \$7 million budget. And it accounted for almost 10 percent of the \$6 million annual budget for [LSC-funded] Legal Services of Eastern Missouri. Land of Lincoln says reserve funds may save it from trouble this year, but both programs are still planning for cuts if interest rates don't rise in coming years. And while many nonprofits have seen endowment funding tank because of the national economic malaise, the plight of legal aid groups is unique in that their troubles are caused directly by the Fed's actions The aid groups say they are swamped with requests in this economic crisis. In 2008, Legal Services of Eastern Missouri saw a 50 percent increase in calls for help with foreclosure and housing over the previous year, Glazier said. Land of Lincoln saw an increase of 150 percent in similar calls, said Executive Director Lois Wood."

The Legal Services E-lert is produced by Emily Savner and edited by Laura Abel and David Udell. Because the E-lert collects stories reported by others, the views presented are not necessarily those of the Brennan Center.

The majority of the text presented in the E-lert is drawn verbatim from original news sources. The bolded headlines are produced by the Brennan Center. Whenever possible, we provide a link to the full text of the original article.

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If you would like to provide the E-lert with information about your work or clippings from your local paper, please contact Emily Savner at emily.savner@nyu.edu or 212-998-6288.

You can obtain information about civil legal services for low-income people or about the Brennan Center at: www.brennancenter.org.

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