

INDIGENT CIVIL LEGAL SERVICES IN WYOMING

A REPORT TO GOVERNOR FREUDENTHAL AND

THE WYOMING LEGISLATURE

AND

A CALL TO ACTION TO ESTABLISH A STATEWIDE PROGRAM

Prepared by The Wyoming Access to Justice Commission

E. James Burke, Chairman
Justice, Wyoming Supreme Court

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Members of the Commission:

N. Denise Burke, Assistant Dean, UW College of Law
Stuart R. Day, Attorney at Law, Wyoming State Bar Foundation
Hon. Timothy C. Day, Circuit Court Judge, Ninth Judicial District
Sleeter C. Dover, Executive Director, Wyoming State Bar
Walter F. Eggers, III, Attorney at Law
R. Daniel Fleck, Attorney at Law
William L. Hiser, President, Wyoming State Bar
Hon. Marilyn S. Kite, Justice, Wyoming Supreme Court
Richard L. Lavery, Immediate Past President, Wyoming State Bar
Leigh Anne Manlove, Policy Analyst, Governor's Office
Ronda Munger, Deputy Court Administrator/Public Information Officer, Wyoming
Supreme Court
Dona Playton, Attorney at Law
Amanda Kay Roberts, Attorney at Law
Hon. Wesley A. Roberts, Circuit Court Judge, Ninth Judicial District
Sen. Anthony F. Ross, Wyoming Legislature, Senate Vice President
Hon. John St. Clair, Chief Judge, Shoshone and Arapaho Tribal Court
Hon. Scott W. Skavdahl, District Court Judge, Seventh Judicial District
Gen Tuma, District Court Clerk, Natrona County

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Appendix #1 – Summary of State Funding of Legal Services Across the Country

EXECUTIVE SUMMARY

(If your time is short please focus on pages 3–9 and 15-19)

Pulitzer prize winning author, David Shipler, in his most recent book, *The Working Poor: Invisible in America*, (2004, Alfred Knopf) illustrates how one problem for a poor person can impact others and produce a chain reaction that can plunge that person further into poverty and make them more dependent on government support to stay afloat. The timely provision of legal services, such as representing a tenant to get an apartment fixed, would help to avert this chain of calamities.

“A run-down apartment can exacerbate a child’s asthma, which leads to a call for an ambulance, which generates a medical bill that cannot be paid, which ruins a credit record, which hikes the interest rate on an auto loan, which forces the purchase of an unreliable used car, which jeopardizes a mother’s punctuality at work, which limits her promotions and earning capacity, which confines her to poor housing.”

We know who needs help getting legal services in Wyoming. They are the elderly or the disabled, struggling to deal with Social Security and Medicare, or in need of a guardianship or will. They are families living in sub-standard housing, who need help with a landlord. They are hard working families, who may have lost their jobs in the recession, thereby losing their health insurance, and who have suddenly been crushed under the weight of uninsured medical costs. They are young mothers, perhaps caught in abusive relationships, who need help with protection orders, divorce and custody proceedings. And they are children, who may simply need the protection of the law and a respite from strife. There are tens of thousands of people in Wyoming who cannot get the legal services they need.¹

¹ In 2008 the Census Bureau counts 48,776 people in Wyoming, 9.4% of the population, as living below the poverty level. This is based on a very strict definition of poverty that sets an income threshold for one person under 65 years old at \$11,201. See: <http://www.census.gov/hhes/www/poverty/poverty.html>, go to the American Community Survey. The definition of poverty is at <http://www.census.gov/hhes/www/poverty/threshld/thresh08.html>

In addition to helping desperate people, a well funded and organized civil legal services program for the indigent promotes respect for the rule of law, which underpins a law abiding and stable society. The law creates remedies and protections for all citizens, but significant numbers of poor people are unable to access those rights. What good is a protection order or child support order if the Mom or Dad cannot get into the courts to enforce it? Without meaningful access to the courts, through the assistance of competent counsel, people give up and conclude that the rules of an organized society apply to others, not to them.

Wyoming has tried hard, over several decades, to provide a legal safety net to the indigent. Many people of enormous good will - lawyers, judges, county officials, state health officers, University and college employees and local volunteer agencies have tried to fill the gap. Some services, in some counties, are available. But the system is a patch work, a quilt missing many panels, and there are many parts of the state where legal services are unavailable to those who cannot afford a lawyer. The need is staggering. The Legal Services Corporation (“LSC”) estimates that only one in five low income people who need help get assistance from a lawyer.²

The Wyoming Access to Justice Commission (ATJ) has proposed the creation of a statewide program that will be committed to providing a uniform level of high quality service to those in need. The Commission has drafted a statute which will be the basis of legislation that Senator Tony Ross will sponsor in the 2010 session, which starts on February 8, 2010. It is a program that will utilize multiple resources, State, Federal, County, private and volunteer, to attempt to knit together a comprehensive program. The ATJ Program proposed here has the following features:

- A program based on the ABA Principles of a State System for the Delivery of Legal Services to the Indigent.
- The statewide program will be funded from two sources, an initial \$500,000 one time appropriation from the Legislature and a \$10 filing fee increase on all cases filed in state district court and circuit courts. Both the one time appropriation and the filing fee increase will be subject to legislative approval in the 2010 session. All monies will be appropriated into the Supreme Court budget. The Supreme Court will be given the authority to operate the program or to contract with a Non-Profit (NP), with appropriate oversight and fiscal accountability. The \$500,000 initial appropriation will be fully repaid to the general fund (in installments) by July 2014 from the court fees collected. The \$10 fee is estimated to raise \$1.5 million per year when fully implemented in Wyoming courts beginning July 1, 2010.

² *Documenting the Justice Gap*, A Report of the Legal Services Corporation, p. 14 (2nd Ed., June 2007).

- Assuming the Supreme Court elects to contract for the operation of the program, it will then be operated by the ATJ NP. The Wyoming Bar Foundation, an existing 501(c)(3), is considering restructuring its programs in order to serve as the ATJ NP. The ATJ NP will:
 - (a) coordinate with all programs that are currently providing legal services to the indigent, including the program funded by the Legal Services Corporation, the programs and clinics at the University College of Law, the guardian ad litem program operated by the State and the counties;
 - (b) establish eligibility criteria for civil legal services to the indigent, which will be limited by statute to serving individuals and families that are at or below 200% of the federal poverty guidelines;
 - (c) be a vehicle to provide funds to existing programs to extend their reach beyond their current funding sources, and hire or contract with lawyers and other professionals where necessary to provide direct representation to all qualified people;
 - (d) operate a statewide single point of entry, or an equivalent mechanism for centralized ease of access;
 - (f) coordinate with the Wyoming State Bar and other entities on private attorney involvement, pro bono legal services, and educational programs;
 - (g) receive grants and donations and make grants for legal services to the poor;
 - (h) establish uniform standards for the delivery of civil legal services to the indigent;
- The statewide program will be accountable at all levels for the expenditure of public and private funds.

If this program and funding is adopted by the 2010 Wyoming Legislature, Wyoming will join 48 other states who are helping the indigent obtain legal representation. As shown on the chart in Appendix 1, 28 of 50 states fund legal services, either wholly or partially, through filing fees and other court fees. Of the 48 states that provide funding for legal services, 26 distribute the funds through the judicial branch. The Commission's proposal thus puts Wyoming squarely in the mainstream of legal services programs around the country.

BRIEF RECENT HISTORY OF EFFORTS TO ADVOCATE FOR ATJ PROGRAMS AND PROVIDE LEGAL SERVICE IN WYOMING AND DESCRIPTION OF CURRENT SERVICES

Low income people living in rural areas are often overlooked in the delivery of legal services, despite the prevalence and persistence of poverty in these areas.³ The rural nature of Wyoming, which makes it so appealing to its residents, also makes it expensive and difficult to provide legal services statewide. In addition, socio-cultural, economic and geographic barriers create difficulties for legal and victim service providers to identify and assist victims. Furthermore, any delivery system for legal services must adequately address cultural, language, and other physical and cognitive barriers of people needing to access such services, and must recognize the sociological, cultural and historical approaches to providing legal services to unserved and underserved populations, including Native Americans.

Although the number of legal issues for low-income people is large and the problems widespread, there are few legal resources to help them. The gap for affordable or free legal services in the state is larger than ever. Up to 80% of poor households that confront a legal need do so without legal assistance.⁴ In Wyoming, statistics indicate that there may be as many as 70,000 individuals and families who would qualify for legal assistance under appropriate guidelines.⁵ Applying the Legal Services Corporation's standards of "minimum access" of 2 lawyers for every 10,000 low income people, Wyoming should have at least 14 lawyers who are employed full time to provide these services.⁶ Wyoming currently has five such attorneys.

Unlike those with adequate resources, low income people are denied access to our legal system far too often. For people who are surviving on a fixed or low income, legal assistance joins health care, child care, gasoline and suitable housing as a privilege that remains just out of reach. As the Legal Services Corporation observed,

³ A 2004 study by the Rural Research Center has found that the more rural the area, the higher the poverty rate. In fact, of the 400 counties nation-wide that have significant (above 20%) and persistent (over 5 decades) poverty levels, 95% are in rural counties. Wyoming is a federally designated rural state where 493,782 people inhabit 97,818 square miles; it is the ninth largest in size, but has the lowest population of the fifty states.

⁴ Available at <http://www.nasams.org/DMS/Documents/1173539417.81/WIreportfinalATJ.pdf>.

⁵ See footnote 1. With 48,776 Wyoming people in poverty in 2008, at the most stringent level of poverty definition, applying a slightly more expansive definition of up to 200% of the poverty guideline would certainly identify over 70,000 people in need of legal assistance for the indigent.

⁶ *Documenting the Justice Gap*, A Report of the Legal Services Corporation, p. 1 (2nd Ed., June 2007). The LSC concluded that the standard for "necessary access" requires the country to increase its capacity to serve the low income population by five times the current capacity.

“[M]any who are eligible for help never seek it – they do not know they have a legal problem, do not know help is available, or do not know where to go for help.”⁷

Providing adequate funding for legal services to those who would otherwise have none promotes access to the civil legal system and makes the administration of justice more efficient so that individuals are not forced to represent themselves. By funding civil legal assistance for low-income and vulnerable populations, many Wyoming residents would access doors to economic independence otherwise not attainable. For instance, an unrepresented party in a divorce action with children is at an extreme disadvantage when it comes to the division of assets and the determination of child support upon divorce. For many low-income citizens, appropriate and well-executed legal services mean the difference between poverty and self-sufficiency.⁸ Currently, Wyoming is one of only two states that do not have a legislative or other specific state appropriation⁹ to directly support general, civil legal aid for low-income individuals.¹⁰

States have studied the cost savings derived from having a program that provides legal representation to low income clients. Massachusetts concluded that there was more than a dollar for dollar leveraging of state investment. In a study of FY 07 the State spent \$9,470,000 on legal services and reaped revenue/cost savings of \$11,305,000.¹¹ These cost savings arise from a variety of mechanisms, including recovery of public benefits (such as Medicare and SSI), payment of child support and alimony, housing representation where clients succeed in staying in their homes as opposed to public shelters (or worse), battered women services, and assistance with tax and unemployment benefits.

Minnesota concluded in 2003 that Legal Aid programs saved the state money by:

- Securing over \$9 million each year in child support orders and Federal disability payments;
- Leveraging over \$10 million each year in Federal, United Way, and foundation funding, and private attorney financial support;

⁷ *Id.*, Preface.

⁸ *High Times in Wyoming: Reflecting the State’s Values by Eliminating Barriers and Creating Opportunities for Women in the Equality State.* 7 Wyo. L. Rev. 295, 313 (2007).

⁹ Some states, including Montana, allocate a portion of civil filing fees directly to the state’s LSC-grantee.

¹⁰ ABA Resource Center for Access to Justice Initiatives, <http://www.nh.gov/judiciary/access/press/060508atjsupport.pdf>. Alaska and Alabama have joined the ranks of states receiving state legislative funding, leaving only two states that do not receive state funding.

¹¹ Memo from the Director of Massachusetts Legal Assistance Corporation dated December 10, 2007, describing the cost savings to the Commonwealth resulting from Legal Assistance provided to low income clients. On file with the ATJ Commission.

- Saving government about \$3.96 million in shelter subsidy costs.

In July 2006 the Legal Services Committee of the Wyoming State Bar drafted a White Paper on “Access to Justice in Wyoming.” That document summarized the lack of centralized services for legal aid to the indigent and described the status of programs as of that date. The White Paper recommended that the Legislature fund a legal needs assessment and requested a \$100,000 appropriation for that survey. The 2007 Legislature declined to fund the assessment.

The current ATJ Commission was formed by the Wyoming Supreme Court in December 2008. The Commission has undertaken a broad review of the current programs and opportunities for providing legal services to the poor. The Commission has had the benefit of the prior work of the State Bar as well as the efforts of many states to implement ATJ programs. For example, New Mexico undertook an extensive review of ATJ programs in that state and designed, funded and implemented a statewide system. That effort, however, took almost five years. The Wyoming ATJ Commission believes that it can learn from the programs in other states and dramatically shorten the amount of time required to get a system in Wyoming up and running. The Wyoming ATJ Commission has been guided by MLKing’s admonition of the “fierce urgency of now.”

In order to get information and perspectives on the need and provision of legal services in Wyoming, the ATJ Commission held five public hearings - Cheyenne on July 27, 2009, Evanston on September 14, 2009, Riverton on October 29, 2009, Casper on November 9, 2009 and Gillette on November 10, 2009. The public hearings were very well attended and generated substantial media coverage. The costs of the hearings have been covered by a grant from the Wyoming Federal District Court Judges. Videos of the hearings have been prepared, which provide compelling testimony of the need for a statewide program. A short (30 minute) summary video is also being prepared and will be available by mid-January.

Wyoming’s current efforts to serve the legal needs of the indigent are fragmented, and legal services, such as they are in December 2009, are provided in a number of different ways. The federal Legal Services Corporation makes grants to organizations around the country to provide legal services to those who cannot afford them. As with any Federal program, the LSC grants come with many limitations and strings attached, including federal oversight of the quality and operation of the programs.

The current LSC recipient agency is Legal Aid of Wyoming, Inc.(LAWyo). At the Casper public hearing Ray Macchia, the Executive Director of LAWyo, said that his office has received more than 900 applications for assistance since it opened early in 2009. However, the program has had to turn away 80% - 90% of the applicants for a number of reasons, including the fact that they make more than 125% of the federal poverty guidelines and that their cases do not fall within the priority criteria that is the basis of the federal funding. If a person makes more than \$10.00 per hour and works full time they will not qualify for LAWyo’s services.

LAWyo has an office in Cheyenne staffed by two lawyers and support staff and an office in Casper that was opened in September 2009 and is staffed by one lawyer and a secretary. LAWyo opened an office in Lander in Fremont County in November 2009 and plans to operate a satellite office in Ft. Washakie to serve the Wind River Indian Reservation, and the indigent population in the central part of Wyoming. It has hired one lawyer and one tribal advocate to provide these services in Fremont County as of November 11, 2009.

Currently, LAWyo and the two legal services clinics at the University of Wyoming College of Law are limited to representing low income people in the state who qualify under the federal guidelines as “indigent” clients.¹² Indigent has been deemed for purposes of legal assistance in our state to be 125% of the federal poverty guidelines (FPG)¹³ even though academic and government experts in this field agree that measures of poverty like the FPG are outmoded and many urge adoption of a self sufficiency standard instead. Unfortunately, Wyoming’s existing providers are unable to assist the vast majority of those who do qualify under the FPG, leaving a substantial number of low income people unable to qualify for legal assistance but also unable to hire a private attorney. Therefore, without more resources, the focus of the existing programs remains on the poorest of the poor.

The existing programs provide the following types of services. These services are only available in certain locations, and many parts of state have no services, requiring clients to travel long distances if they can find a provider willing to help them.

¹² R. Sup. Ct. of Wyo. Providing Org. and Gov. of the Bar Assoc. and Attorney at Law of the State of Wyo. 12, available at http://courts.state.wy.us/CourtRules_Entities.aspx?RulesPage=OrganizationAndGovernmentOfWyoBarAssociation.xml

¹³ See e.g., http://www.19thcircuitcourt.state.il.us/self-help/no_fee.htm.

Legal Services By Agency

Agency	Legal Aid of Wyo	Wyoming Coalition Against Domestic Violence and Sexual Assault	UW Legal Services	UW Domestic Violence Legal Assistance	Casper College Referral Program	Protection & Advocacy
Types of Case						
Divorce	X	X	X	X	X	
Child Custody/Visitation	X	X	X	X		
Child Support		X	X	X		
Landlord/Tenant	X	X	X	X		
Immigration		X	X	X		
Civil Sexual Assault		X		X		
Bankruptcy	X					
DV Protection Orders	X	X	X	X		
Stalking Protection Orders	X	X	X	X		
Guardianships	X		X	X		
Housing	X		X	X		
Employment	X					
Consumer Finance	X				X	
Establishment of Paternity		X	X	X		
Income Benefits (food stamps, TANF, WIC, etc.)	X		X			
Simple Wills	X		X	X	X	
ADA	X					X
Representation of Ind. With Traumatic Brain Injury			X	X		X
Representation of SSI/SSDI Recipients in Employment Claims	X					X
IDEA and IEPs						X
Advice Only	X					
Pro Se Assistance	X	X	X	X	X	

University of Wyoming Legal Services Program and the University of Wyoming DV Legal Assistance Project

For over two decades, poor and underserved clients have been able to access legal representation through the College of Law's clinical programs. Clients are often referred to these programs through local domestic violence programs, private attorneys, County bar associations, former clients, and judges. Under Wyoming Court Rules, third year law students are able to provide direct representation to clients in a variety of settings while under the supervision of experienced attorneys.¹⁴ Knowledgeable faculty members along with enthusiastic and committed students collaborate to make law school clinics a valuable community resource.

The clinics at the law school are funded through three separate sources. The University of Wyoming pays the salaries and benefits of the Faculty Supervisor, John M. Burman and the Assistant Faculty Supervisor, Dona Playton. The clinics have been fortunate in the past to receive funding from the Wyoming State Bar Foundation's IOLTA Grant Program which helps pay for overhead expenses, including telephone charges, office supplies, postage and travel. The Wyoming Coalition Against Domestic Violence and Sexual Assault contributes funds for the student director of the DV Clinic, including some office supplies.

Legal Aid of Wyoming, Inc.

Legal Aid of Wyoming, Inc. (LAWyo) is the current legal services agency in Wyoming funded by the federal Legal Services Corporation. It has replaced the prior statewide program, which was not successful. LAWyo attorneys handle civil, non-fee generating cases, including domestic relation cases. Potential clients must qualify under Federal Poverty Income Guidelines based on household income. The geographical location of the potential client and case are taken into consideration when determining whether adequate resources exist to handle the matter effectively.

Wyoming Coalition Against Domestic Violence and Sexual Assault Legal Assistance to Victims Project

The Wyoming Coalition Against Domestic Violence and Sexual Assault's (WCADVSA) Legal Assistance to Victims (LAV) Project is a multi-jurisdictional legal services project that provides effective, direct legal representation to victims of domestic violence, dating violence, sexual assault, and stalking statewide in civil legal cases pertaining to the abuse.

¹⁴ Rule 12, Law Students Right to Practice Law, Rules of the Supreme Court of Wyoming Providing for the Organization and Government of the Bar Association and Attorneys at Law of the State of Wyoming (1989)., *available at* http://courts.state.wy.us/CourtRules_Entities.aspx?RulesPage=OrganizationAndGovernmentOfWyoBarAssociation.xml.

In collaboration with Wyoming's twenty-four local domestic violence and sexual assault (DVSA) programs, the Wyoming State Bar, the Wyoming State Bar Foundation, the University of Wyoming College of Law, and WCADVSA, attorneys represent victims in legal proceedings directly related to a client's experience of violence which are likely to increase the victim's safety and security, including child support, child custody, and divorce proceedings including increasing knowledge and capacity to handle civil sexual assault and immigration cases. LAV is federally funded and has experienced dramatic decreases in its funding each year for the past several grant cycles. The number of attorneys will drop from two to one in 2010, as a result of a federal budget cut to the WCADVSA grant application.

Casper College Paralegal Program

The Casper College Paralegal Program provides its students with experiences in the legal community through volunteer work with actual clients under the supervision of a pro bono attorney. The types of cases they are able to handle include simple wills, divorces, name changes, and landlord/tenant issues in Casper, Wyoming. While there is no criteria for income, the pro bono attorney will likely decline a case if a client has the ability to pay. There are currently 10 pro bono attorneys who are willing to accept/supervise cases.

Cases are accepted in the Fall on a first come, first serve basis. Paralegal/graduate students perform intake interviews, draft the work product under the supervision of one of the 10 pro bono attorneys, and perform any other task the supervising attorney or manager assigns. The program accepts 30 cases each semester. All funding is provided by Casper College.¹⁵

Protection & Advocacy

Protection and Advocacy (P & A) employs attorneys and other professional staff who provide a variety of services for individuals with disabilities. There are several topic-specific programs within the agency focusing on such issues as mental illness, social security benefits, voter accessibility, and technology assistance.

The types of cases handled by P & A are civil matters directly related to the individual's developmental disability. These may include such issues as abuse and neglect investigations in institutions, special education rights, denial of due process in treatment, placement or review, and right to services delivered in a non-discriminatory fashion.

There are several criteria that are weighed when accepting a particular case. P & A will consider the merits of the claim and availability of resources, the ability to advocate for one's self, whether services are available elsewhere, and determine if the case falls within a Developmental Disability Program priority area. Furthermore, the case must meet P & A policies and procedures.

¹⁵ For more information, contact Mary Kubichek, Director (307)268-2618.

In order to be eligible for P & A services one must have a developmental disability that is severe and chronic. This impairment must have occurred before the client was 22 years old and it must limit functional capacities in three or more activities related to self-care, communication and independent living. There are no income requirements for eligibility for assistance and the funding is federal.¹⁶

Guardians *ad Litem* Program

This program appoints attorneys (GALs) to represent children in certain types of dependency court cases. The Child Abuse Prevention and Treatment Act (CAPTA) of 1974 requires that “in every case involving an abused or neglected child which results in a judicial proceeding a guardian *ad litem* shall be appointed to represent the child in such proceedings.”¹⁷ This requirement is a prerequisite for states to receive federal grant funds for use in prevention and treatment of child abuse and neglect; therefore, it is not income-determinative.

In accordance with CAPTA, GALs are appointed by the court for children in abuse/neglect, children in need of supervision (CHINS), termination of parental rights and sometimes delinquency cases.

When a GAL is appointed through the state’s GAL Program in the types of cases listed above, the state and county pay for the representation. Eligibility is not income determinative and all funding is through a state appropriation with a county contribution for GAL-appointment.¹⁸

¹⁶ For more information, contact 320 West 25th Street, 2nd floor, Cheyenne, WY 82001; (307)632-3496 wypanda@wypanda.com.

¹⁷ <http://www.census.gov/popest/states/tables/NST-EST2008-01.csv>.

¹⁸ For more information, contact Stacey Obrecht, 2020 Carey Ave., Suite 201, Mezzanine Level, Cheyenne, WY 82002; (307)777-7480, sobrecl@state.wy.us; jsimen@state.wy.us.

PRINCIPLES OF A STATE SYSTEM FOR THE DELIVERY OF LEGAL AID TO THE INDIGENT

Adopted from the ABA Principles

A Wyoming system for the delivery of civil legal services to the indigent will achieve its goals if it:

1. Provides services to the low-income and vulnerable populations in the State.
2. Provides a full range of services in all forums.
3. Provides services of high quality in an effective and cost efficient manner.
4. Provides services in sufficient quantity to meet the need by seeking and making the most effective use of financial, volunteer, and in-kind resources dedicated to those services.
5. Fully engages all entities and individuals involved in the provision of those services.
6. Makes services fully accessible and uniformly available throughout the state.
7. Engages with clients and populations eligible for civil legal aid services in planning and in obtaining meaningful information about their legal needs, and treats clients, applicants and those receiving services with dignity and respect.
8. Engages and involves the judiciary and court personnel in reforming rules, procedures and services to expand and facilitate access to justice.
9. Is supported by the organized bar and judiciary that is providing leadership and participating with legal aid providers, law schools, the executive and legislative branches of government, the private sector and other appropriate stakeholders in ongoing and coordinated efforts to support and facilitate access to justice for all.
10. Engages in statewide planning an oversight of the system for the delivery of civil legal aid to coordinate and support the delivery of services and to achieve the principles set forth above.

Description of the Organization and Funding of a Statewide Program

The ATJ Commission has learned from discussions with ABA officials, who are experts on legal services delivery, that the most successful state programs are those that are closely allied with the Judiciary. This is the model we recommend for Wyoming.

The statewide program will be funded through the Wyoming Supreme Court's budget with a one time appropriation of \$500,000 (to be repaid) and an increase of \$10 in the court filing fees for all cases, civil and criminal, in the district courts and circuit courts.

The Supreme Court will be given the authority to operate the statewide program or it may contract with a 501(c)(3) non-profit. The overall program will be organized on the ABA Principles of a State System for the Delivery of Legal Aid to the indigent. The program will have a broad oversight role to ensure the development of a statewide program and it will have a direct operational role to provide funding assistance to program to provide direct legal services to the indigent.

If the Supreme Court chooses to contract for the operation of the program one possibility is using the Wyoming Bar Foundation, an existing 501(c)(3) of the Wyoming State Bar. The Bar Foundation is considering whether it will restructure its current operations to undertake the role of the ATJ NP.

If the Supreme Court contracts for the operation of the program, as a first task the ATJ NP will establish uniform standards for eligibility to receive free or reduced cost legal services. One of the problems with the funding provided by the LSC is that the eligibility standards are so strict (individuals may make no more than \$1100 per month, with \$400 per month for each additional dependent), that many people who desperately need legal services must be turned away. The proposed legislation sets the eligibility standards at 200% of the federal poverty guidelines. Another issue is that there are no uniform guidelines for judicial determination of who should be allowed to proceed *in forma pauperis* or when lawyers should be appointed in circumstances where domestic violence may be present and several family members may need attorneys.

It will organize and operate a single point of entry to the program, or establish other operations that allow for simple and easy access to all programs. (see the discussion below).

Ensuring that there are opportunities for direct access to a lawyer is one of the key roles of the statewide program. Direct legal assistance requires the most resources, greatest time commitment and prioritization policies in order to maximize the resources to meet the greatest need. Direct legal assistance is not possible without adequate government involvement. A successful legal assistance program must have adequate oversight and access to training and resources necessary to provide high quality, effective and meaningful legal representation to eligible clients. Without the resources necessary, ad hoc direct representation runs the risk of not improving the lives of the

people served and further undermines public confidence in our legal system. Policies pertaining to direct legal representation must include a prioritization of the most pressing legal needs of clients, a client-centered approach to delivery, consistency and evaluation of the quality of legal assistance provided statewide.

The current system of direct legal services by the various providers in the states is not coordinated, is overextended and has large gaps. The ATJ NP will likely not be a direct recipient of federal funding from the LSC but will integrate the services of the existing providers: Legal Aid of Wyoming (the current LSC funded entity), the University of Wyoming College of Law Legal Clinics, and the Wyoming Coalition Against Domestic Violence and Sexual Assault.

The ATJ NP may have a role to provide financial assistance to these organizations, perhaps by providing direct funding to hire additional legal staff or serving as an over flow for certain demands. The statewide organization could also help provide training and other administrative support to these vital organizations.

The statewide organization will also work with the counties and the court system in the administration of the GAL program. This relationship initially might just be one of coordination of resources to ensure adequate coverage. As the statewide program evolves it may be desirable to let it have a more significant role in managing, overseeing and evaluating services provided by the counties.

The statewide organization will serve the role as evaluator for those programs that receive funds directly from it. It will coordinate with the State Bar on pro bono services provided by Bar members, and organize the contribution of individual lawyers from around the state, whether on a fee or pro bono basis. It will help provide training to lawyers in private practice and other service providers, such as the Casper Paralegal program.

The current federal LSC funding to LAWyo is about \$695,000. That covers the cost of 4 lawyers, staff and office space and office costs for two offices in Cheyenne and Casper. The program has also set up an office in Fremont County to serve the Wind River Indian Reservation and the indigent population in that county. Depending on the model that is adopted, operating a statewide program, with full-time and contract lawyers serving all nine judicial districts, and including the existing resources of the LSC funding of LAWyo and the University of Wyoming College of Law, results in projected costs of \$2.0 - \$2.5 million. The new additional funding needed is \$1.3 million to \$1.8 million.

The ATJ Commission proposes that the State invest \$500,000 for the period April 1, 2010 through June 30, 2011. This initial appropriation will be repaid to the general fund by July 1, 2014. By July 1, 2011, the funds generated by the collection of \$10 per case filed in the District Court should be sufficient, in combination with all other resources, to operate the program in a sustainable manner that does not require State general funds.

This proposal is simple in concept, but, of course, there are many details to work out. Filing fees for all cases, civil and criminal, will be increased \$10, with the money designated to fund legal services for the indigent and included in the budget of the Supreme Court. This will require legislative approval in the 2010 session. The Supreme Court has the authority to increase filing fees by court order, but any increase in fees goes to the general fund unless it is legislatively directed, hence the need for legislative authorization. It is estimated that such a fee increase would generate about \$1.5 million per year if a \$10 fee is imposed.

The ATJ Commission supports funding for civil legal services by an increase in court filing fees for a number of reasons. Wyoming's filing fees are very low in comparison to other states. The current fee is \$60 in the District Courts (which includes the mandatory court automation fee), \$30 in the Circuit Courts. The average fee across the country is about \$150. The ATJ Commission is working with the District Court Clerks to address these issues.

In addition, fees are obviously not tax revenue. They are paid by those who use the court system and who benefit from a well organized and funded legal system.

Using court filing fees provides a permanent stream of revenue that does not affect the State's general fund. Although the Legislature will have to appropriate the funds from the indigent civil legal services account every two years, just as happens with the court automation fee, the program will not be a drain on the state's budget.

Also, using court fees imposes a limitation on the size of the program and prevents the development of an ever expanding bureaucracy. The court fee will only raise a certain amount of money each year, and the program administrators will know the financial constraints under which they will have to operate. Because the program will not have recourse to the general fund, it will reach its optimum size and grow no further, unless sources of funds outside the court fees are secured (private grants, federal funding).

Getting the program started in July 2010 will require some initial start up funding. Because the fees are only collected monthly and will need to be appropriated back to the Supreme Court budget in 2011, the \$500,000 one time appropriation is essential to get the program underway and not miss almost two full years. A portion of these funds (\$75,000) are proposed to be available on April 1, 2010, which will allow the statewide program to get started and organized for the period July 1, 2010 through June 30, 2011. After that date sufficient fees should be generated so that the program is self sustaining and will not require any additional general fund appropriation, nor require raising filing fees, for at least the next couple of biennium.

The Supreme Court is used as an oversight and a granting authority because of its paramount role in the administration of the justice system in Wyoming. The Supreme Court administers funds derived from court filing fees for the court automation projects. Because of this role it has experienced personnel who can manage these accounts and audit the expenditures.

Below is the proposed language from the LSO draft of the bill (December 7, 2009) that will create the “civil indigent legal services account.” The bill also describes the powers and duties of the program and Section 3 describes the appropriation.

5-2-121. Indigent civil legal services account created; purposes.

(a) There is created the indigent civil legal services account to be administered by supreme court. The account shall receive all funds paid to the state treasurer from the court filing fee or costs imposed to support indigent civil legal services, pursuant to W.S. 2-2-401, 5-2-202, 5-3-205, 5-3-206, 5-6-108, 5-6-204, 5-6-303, 5-9-135, 5-9-144, 6-10-102 and 6-10-103. Funds within the account shall be used by supreme court for the establishment and operation of a statewide program to provide civil legal services to indigent individuals within the state. Interest accruing to this account shall be retained in the account and shall be expended for the purposes provided in this section. No funds shall be expended from the account until the legislature appropriates the funds.

(b) For the fiscal biennium commencing July 1, 2012 and each fiscal biennium thereafter, the supreme court shall include in its proposed budget a proposed biennial budget and plan for the account. Each biennial plan and proposed budget shall be submitted to the joint appropriations committee and the joint judiciary interim committee. The joint judiciary interim committee may submit any comments it deems appropriate to the joint appropriations committee.

(c) The supreme court shall conduct internal audits of the account on a biennial basis beginning July 1, 2011.

5-2-122. Indigent civil legal services program created; purposes.

(a) An indigent civil legal services program is created to be operated in accordance with the following:

(i) The supreme court shall develop a comprehensive plan for funding a statewide program of civil legal services to the indigent from the account. By June 1, 2010 the court shall submit to the joint appropriations committee and the joint judiciary interim committee an initial plan of operation for the program, for the committees' review and comment. By November 1, 2010, the court shall submit to the joint appropriations committee and joint judiciary interim committee a final plan and a proposed appropriation for the expenditure of funds from the account for the period July 1, 2011 through June 30, 2012. The joint judiciary interim committee may submit any comments it deems appropriate to the joint appropriations committee.

(ii) The supreme court may operate the program directly, or contract with a non-profit organization to operate the program;

(iii) The court shall adopt rules and regulations for the program prior to implementation;

(iv) The rules shall establish eligibility standards for the receipt of services. The eligibility standards shall require that services be funded from the account only for individuals whose total household income does not exceed two hundred percent (200%) of the federal poverty level;

(v) The program shall be operated in coordination with other publicly or privately funded programs providing legal services to the indigent with a goal of developing an integrated system for the delivery of indigent civil legal services on a statewide basis by July 2011;

(vi) The program shall be coordinated with the Wyoming State Bar and other entities on private attorney involvement, pro bono civil legal services, and educational programs;

(vii) For funding under the program, the program shall establish a statewide single point of entry for indigent civil legal services or establish other operations that allow for simplified and easily available access to the program;

(viii) The program may grant funds to existing eligible programs to assist in providing services and may be used to enhance the services that the existing programs are providing;

(ix) The program may receive grants and donations which shall be deposited to the account;

(x) The program shall establish uniform standards for the delivery of legal services and operate programmatic and fiscal management programs to ensure accountability for all funds.

Section 3.

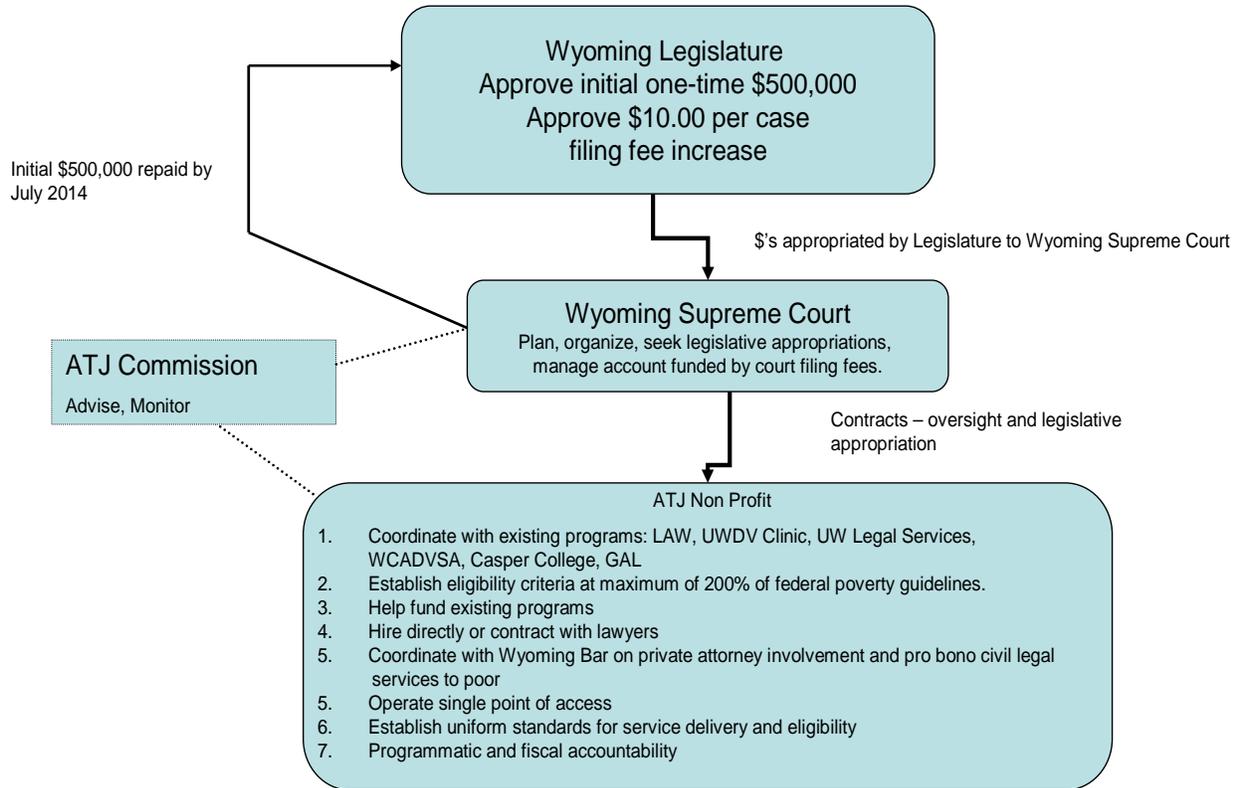
(a) There is appropriated from the general fund to the supreme court five hundred thousand dollars (\$500,000.00). This appropriation shall be used by the supreme court to operate the indigent civil legal services program for the period July 1, 2010 through June 30, 2011. Of this appropriation not more than seventy-five thousand dollars (\$75,000) may be expended between April 1, 2010 and June 30, 2010 to fund the initial start-up and organization of the program. Notwithstanding any other provision of law, this appropriation shall not be transferred or expended for any other purpose and any unexpended, unobligated funds remaining from this appropriation shall revert as provided by law on June 30, 2011. Beginning July 1, 2011, all funding for the indigent civil legal services program shall come from the account created by W.S. 5-2-121. Commencing July 1, 2012, the state treasurer shall transfer funds from the indigent civil legal services account to repay to the general fund the initial five hundred thousand dollar (\$500,000.00) appropriation. The transfers shall be made quarterly in equal amounts as necessary to fully repay the appropriation by June 30, 2014.

Summary of Court Filing Fees in Wyoming

Note: All filing fees collected by the District Courts are remitted to the County Treasurer for the County general fund, except the court automation fee. The filling fees collected by the Circuit Courts are remitted to the State Treasurer. The court automation fee is remitted by all courts directly to the State Treasurer for deposit in the judicial systems account. Filing fees collected by Cities and Towns are remitted to the City or Town Treasurer. A proposed indigent civil legal services fee would be remitted by all courts to the State Treasurer for deposit in a supreme court account.

Court	Fees
Probate W.S. 2-2-401	Filing fee - \$50.00 Inventory fees Court Automation fee - \$10.00
Supreme Court 5-2-202	Filing fee - \$75 (By Court order, 5/9/2000) Court Automation fee - \$10.00
Appellate filing fees for District Courts, Circuit Courts, Municipal Courts	Filing fee - \$50.00 (By Court order, 6/27/2000) Court Automation fee - \$10.00
District Court 5-3-206	Filing fee - \$50.00 Court automation fee - \$10.00 Various incidental fees
District Court fee for transcripts for cases appealed to the Supreme Court. 5-3-206	Transcript fee - \$50.00 Court automation fee - \$10.00
City or Town Courts 5-6-108; 5-6-204; 5-6-303	Filing fee - \$10.00 Court automation fee - \$10.00 (if provided by City or Town ordinance).
Circuit Courts 5-9-135; 5-9-144	Filing fee \$20.00 Filing fee in small claims court is \$10.00 Court automation fee - \$10.00
Criminal cases – court automation fee collected 6-10-102; 6-10-103	For all felonies – Court automation fee \$10.00 For all misdemeanors – Court automation fee \$10.00
Court automation fee is created by W.S. 5-2-120.	
Indigent civil legal services fee to be created by new W.S. 5-2-121.	

Access to Justice Statewide Program



Elements of the Proposed Operation of a Statewide System

Below is a discussion of the types of programs and projects that could be within the management purview of a statewide organization.

Assistance to Veterans

Veterans have special legal needs and the program will seek to address them, particularly for veterans who have returned from deployment in Iraq and Afghanistan and those who have been wounded. Private attorneys are not allowed to charge a fee for veteran's disability claims, so many of these service men and women are unable to get representation once they leave the service. Veterans may not be fully informed about their rights or the benefit programs available to them. Through a well operated civil legal services program for the indigent we can avoid leaving out of the system those who have responded to the call of their country.

Statewide Legal Information and Resource Website

Within the legal services community, "statewide websites" refer to websites that provide a central portal of state-specific legal information intended to assist low-income persons and the advocates and pro bono attorneys who represent them. It is a useful mechanism to inform low-income persons throughout the state of their legal rights and responsibilities. These websites, originally developed with funding from the LSC¹⁹, seek to collaborate with the entire statewide justice community to provide a comprehensive source of high quality legal information, referrals to legal assistance, and resources to assist advocates assisting low-income clients.

Statewide websites include three primary components:

1. A public website designed to provide low-income persons with accurate, easy-to-understand information on relevant legal issues. These public websites also provide information on the available legal services in the state and where and how to access those services.
2. An advocate website, generally password protected, where legal service staff shares legal research, documents and communicate on a statewide level.
3. A portion of the advocate website dedicated to assisting pro bono attorneys with resources to support their representation of low-income clients.

LSC has funded statewide websites in 54 states and territories.²⁰ The majority of these websites are built using one of two templates: LawHelp²¹, a website template

¹⁹ See <http://www.lsc.gov/>

²⁰ See tig.lsc.gov/presentations/SWEBinpractice.ppt at p. 5

developed by Pro Bono Net²² or the Open Source Template, developed by Kaivo²³. A listing of all the public statewide websites is available at LawHelp.

The Internet has become a central place for Americans to find information. According to the Pew Internet and American Life Project²⁴, an estimated 77% of Americans use the Internet (at least occasionally).²⁵ Studies also show that approximately 57% of American adults making less than \$30,000 per year use the internet, regardless of whether they have a computer in the home.²⁶ Use of the Internet cuts across all income, race and education levels.²⁷

Additionally, Americans are increasingly using the Internet to seek legal assistance. In 2005, the LawHelp national, individual, and program sites received nearly 2.5 million combined visits, a 55 percent increase over 2004.²⁸ Lawyer and advocate support sites received more than 400,000 visits.²⁹ In 2005, OST public and advocate sites had 2.7 million visits (a 42% increase over 2004), meaning there were over 5 million visits to the statewide website network in 2005.³⁰

Maintaining a centralized website has several other advantages, as well. First, it will enable individuals to find the answers to legal questions themselves, without having to go through the long process of applying to a provider for services and potentially being waitlisted or denied. Second, it requires minimal expenditures of time, travel, and money to maintain and update. Third, it is sustainable—the website is an autonomous unit that can operate largely independent of future funding or staffing issues and simply requires periodic updates and revisions. The centralized technology

²¹ See <http://www.lawhelp.org/>.

²² See <http://www.probono.net/>

²³ See <http://www.kaivo.com/TIG>

²⁴ <http://www.pewinternet.org/>

²⁵ **Pew/Internet Study Finds Most Americans Get Their Answers From The Internet**, available at <http://searchengineland.com/pewinternet-study-finds-most-americans-get-their-answers-from-the-internet-13028>

²⁶ Information from Joyce Raby, presenter at the 2009 Equal Justice Conference. Her email address is: jaraby@gmail.com.

²⁷ See <http://www.lsntap.org/bookshelf?tid=125&name=Trends%20in%20Technology%20Use>. This section contains statistical information about who uses online resources.

²⁸

<http://www.lsntap.org/sites/lsntap.org/files/Impact%20of%20Statewide%20Websites%20on%20Service%20Delivery.pdf>.

²⁹ *Id.*

³⁰ *Id.*

system allows legal aid providers to simultaneously learn from what other providers have already accomplished while saving time and money.³¹

Prior to losing its funding, Wyoming Legal Services had a website in place hosted by “probono.net,” which provides a powerful customizable platform.³² The current website is the holdover from Wyoming Legal Services and must be audited for accuracy. This will ultimately require a total overhaul of the site. While the requisite contract with the probono.net team does not require renegotiation, probono.net requires a yearly fee of \$6,000 which is currently past due.³³ Probono.net also comes equipped with an online password-protected system that maintains a database of pleadings, data on potential clients, and other requisite data for attorneys who desire to take cases *pro bono*. As such, a centralized website can reduce the temporal and financial burdens on both low-income clients and the providers of legal aid while simultaneously increasing overall coverage to the entire state.

Technology

Technology allows legal service providers to connect with many people in need, both sustainably and affordably. Technology is a critical aspect of a delivery system that will assist in lessening geographical barriers in Wyoming. It can be used to provide training to legal providers, resource sharing, E-Newsletters, webinars³⁴, podcasting, Twitter, Facebook³⁵ and other multi-media outreach, including video conferencing, remote computer access, and a web page with community legal education, pro se information and materials, and other appropriate legal information.

Assisting Self-Represented Parties

A major reason for the increase in self-representation is lack of financial resources. Furthermore, because of a lack of funding for legal services, many providers are forced to turn away eligible applicants in order to maximize resources. It is not only indigent people, but working and middle class individuals unable afford to hire private attorneys who also turn to *pro se* or self represented resources.

Cases involving self-represented litigants often require significantly more time from judges and court staff; they put judges and court staff in the difficult and

³¹ <http://philanthropy.com/free/articles/v21/i09/09003601.htm>

³² <http://www.wyominglawhelp.org>

³³ Information provided by Alison Paul of Montana Legal Services, the agency that LSC has sought to provide support to the current and incoming LSC grantee in Wyoming.

³⁴ See www.lsntap.org and www.gotowebinar.org for ideas.

³⁵ As the largest social network, Facebook can allow for syndicated newsfeeds or target emails to search for attorneys to handle pro bono referrals, which could also be utilized on LinkedIn, a social network for professionals.

sometimes stressful position of trying to deal fairly with self-represented parties without compromising neutrality; they create ethical and practical challenges for counsel in cases where one side is represented and the other is not; and the inability of some self-represented litigants to understand and comply with court rules and procedures may make it impossible for their cases, however worthy, to be decided on the merits.³⁶

Given the current economic downturn, there is every reason to expect that still more individuals will find it necessary to bring or defend civil cases of great personal importance involving family, housing, employment, and financial issues without the benefit of legal counsel.³⁷ The issue has become more prevalent over the years as costs of legal representation increase and the availability of affordable legal representation decreases.

The increase in self-represented litigants in civil matters has profound effects on ensuring meaningful access to justice. The good news is that many people can competently handle their own legal affairs *pro se* if provided adequate assistance. In recognition of this, Wyoming has taken the first major step in assisting self-represented litigants by adopting standardized forms for domestic violence and stalking protection orders as well as developing and making available self-help forms for divorce, child custody and child support actions. Other possibilities to assist *pro se* litigants include automating the forms, placing self-help resources on the internet, developing handouts and other educational materials, and coordinating with the bar and local county bar associations to establish lawyer for the day and other pro bono programs.³⁸

Many states throughout the country now utilize automated *pro se* packets which operate through a simple Graphical User Interface (GUI). An individual enters their name and basic information and it is automatically propagated to the proper places throughout the forms. The end result is a polished set of pleadings. There is some funding available to develop online document assembly projects, including those that address legal issues such as foreclosure, criminal expungement and the needs of the Spanish-speaking community.³⁹ Automated forms can reduce the number of incoming potential clients requiring direct legal services and provide people in need of legal assistance speedier access to service. The Wyoming Supreme Court website currently has *pro se* packets available for download. Under a previous grant proposal, a contractor with LSC began to automate certain Wyoming *pro se* forms but stopped when Wyoming Legal Services lost their funding.

³⁶ ADDRESSING THE NEEDS OF SELF-REPRESENTED LITIGANTS IN OUR COURTS, FINAL REPORT AND RECOMMENDATIONS, The Supreme Judicial Court Steering Committee on Self-Represented Litigants November 21, 2008, available at <http://www.abanet.org/legalservices/delivery/downloads/maselfrepfinalreport.pdf>

³⁷ *Id.*

³⁸ *Id.*

³⁹ http://www.probono.net/library/item.259786-Pro_Bono_Net_Makes_Awards_to_Five_Innovative_Document_Assembly_Projects

Potential clients will likely have questions during the process of filling out the automated forms. To answer these questions, the website can eventually have a live-chat system, similar to the systems in place on websites that sell products to provide customer service to potential customers. The live-chat service in use by Montana Legal Services is through “liveperson.com.” LivePerson contracts through probono.net at a discounted rate.⁴⁰ LivePerson allows individuals who require assistance filling out the automated forms to gain instant access to a live person with whom they can ask questions and receive general information about the forms or *pro se* process. The chat system will require staffing, but this can be provided by AmeriCorps volunteers, paralegals from Casper College, legal services staff or, potentially, law students from the University of Wyoming. Though ethics rules would prohibit volunteers from giving legal advice, volunteers could provide detailed assistance through each step of the automated system. It would cost little to keep the automated form system staffed, since the primary source of staffing would be volunteers or legal services staff who can work on other projects when not needed on the live chat.

Pilot Self-Help Sites in Courthouses

Before losing its funding, Wyoming Legal Services received grant money to (1) automate *pro se* forms and (2) create a *pro se* assistance center in the Seventh Judicial District Courthouse in Casper. Judicial approval took over a year to receive. The *pro se* assistance center would have been staffed by volunteers from the Casper College Paralegal Program. Unfortunately, Wyoming Legal Services dissolved before using the grant and the assistance center never materialized. However, the idea should not be abandoned because its benefits are too great for clients, attorneys and judges. Often a *pro se* party who goes to court has basic procedural questions which court officials are unable or simply lack the time to answer. Creating pilot sites in larger courts throughout the state will enable face-to-face contact with *pro se* parties, without the cost of a full-time attorney. These sites would be staffed by volunteers.

Many of the legal issues faced by low-income individuals in Wyoming can be solved by simplifying the *pro se* system and providing effective assistance through the process of filling out *pro se* forms. This will reduce the burden on direct legal providers. If *pro se* is insufficient, an individual can apply for direct legal assistance, but a simplified, guided *pro se* system would solve many of the more straightforward situations. Further, if individuals who began proceedings with the automated system found their situations too complicated and required direct legal assistance from an attorney, the standardization of the forms would make it easier for attorneys to pick up where the *pro se* party left off.

Other states have demonstrated success with the use of assisted *pro se*. For example, Illinois Legal Aid Online has been working with the state court system to set up legal self-help centers for two years. The organization's ability to automate the preparation of legal documents was critical in persuading the courts to join the effort:

⁴⁰ Information provided by Alison Paul of Montana Legal Services, the agency that LSC has sought to provide support to the current and incoming LSC grantee in Wyoming.

“When people are using the automated documents, the judges receive legible, complete, and accurate court forms and documents, [which] makes them happy.”⁴¹ Usually *pro se* centers are located inside courthouses, but in some of the most rural areas, the centers are located in libraries. Staff members and volunteers are available to help people make their way through the automated documents.⁴²

Centralized Intake/Single Point of Entry

Currently, all three legal providers have separate intake procedures. When an individual calls, any staff available to take the call at the time answers and goes through a screening process. Sometimes individuals find they call every legal services provider they can find. Establishing a centralized call center will handle screening and eliminate confusion or multiple providers duplicating work. It will be necessary for an effective intake center to have policies or mechanisms for referral of service applicants among all the providers.

The centralized call center could be located in Cheyenne in the Legal Aid of Wyoming office. An employee would receive phone calls from a toll-free number, engage in a basic screening process determining income eligibility and ascertaining whether abuse is a factor. If domestic violence, sexual assault or stalking is an issue, the applicant could be forwarded to either the Coalition or the University of Wyoming DV Legal Assistance Project. Otherwise, the screener could forward the case to the other providers or direct the person toward the self-help forms or the statewide website. The screener would only determine basic eligibility and whether the domestic violence programs could take the case. Final decisions as to case eligibility and resource availability would remain the responsibility of each individual provider.

Centralized intake removes barriers preventing rural indigents from adequately accessing competent legal counsel. If individual offices utilize separate intake, it can serve to shut out indigent clients from receiving care, since it becomes confusing and unclear who provides services and who does not. Rural clients, already facing significant hurdles created by lack of funds and time, are likely discouraged from actively seeking legal assistance if they are denied by one of the offices utilizing individual intake, although other offices may have space available to represent the client. There is no way for a rural client to know up front the number of providers in the state or how to contact them, especially in an urgent situation. Further, it renders coordination between providers difficult, since one client could apply to multiple providers at once.

Given the prevalence of these problems nationally, centralized telephone intake has been shown to solve these problems and operates as the cornerstone of many state

⁴¹ Information from Lisa Colpoys, Executive Director, Illinois Legal Aid Online. <http://philanthropy.com/free/articles/v21/i09/09003601.htm>

⁴² *Id.*

delivery systems.⁴³ Utah, for example, is able to screen almost 95% of indigent client applicants via a centralized telephone intake system. Minnesota and Nevada have seen similar success through the use of centralized intake.⁴⁴ Telephone intake facilitates speedier service to clients by allowing legal counselors to easily target the specific legal issues in question.

Similar to Wyoming, Alabama has faced the problem of individual offices utilizing separate intake systems for each individual office, which has rendered the delivery of services to rural indigents difficult and disorganized. Centralized intake has solved many of these issues. Other states faced with the daunting task of serving distant, isolated rural communities are able to better serve indigents from those communities with a centralized intake location and toll-free phone number. This removes geographic and socioeconomic barriers and allows indigents to receive help they need quickly and efficiently. With a centralized system, Wyoming will be able to link providers with eligible applicants in need of legal assistance, determine whether direct legal assistance is necessary or direct the applicant toward additional, self-help resources, regardless of where they live in the state. A single point of entry eliminates duplicative efforts and makes better use of limited resources.

Some states and counties are using a single telephone number and web based system utilizing the phone number “211.” This number is being used with great success around the country as a single point of access for human services and health care programs. Adding legal services to the 211 phone center is a natural part of that resource and is included in such programs in other states.

Private Attorney Involvement

Another important aspect required for compliance with LSC regulations is the coordination and collaboration with members of the private bar. Even with a robust *pro se* system and offices strategically placed throughout the state, the demand for direct representation will likely outpace the number of available spots in each organization. Legal services can further meet this demand through private attorney involvement. Some states utilize the Judicare system, which has proven to be a successful system to involve private attorneys. Judicare incorporates a flat-fee structure that provides monetary incentives for private attorneys to take a case from a lower-income client.

Judicare is a program that some LSC providers use to deliver free legal services through private attorney involvement (PAI). The attorneys are compensated at a reduced rate with a set limit to how much can be earned on a particular case. This program seems to be most popular in rural areas of certain states where attorneys are sparsely located. Judicare connects low-income clients to attorneys who are located closer to the client. This is especially beneficial to clients who are unable to travel to urban areas.

⁴³ See generally http://www.lri.lsc.gov/sitepages/stpl/stpl_rvwstpls.htm.

⁴⁴ Information from Ken Bresin, Utah Legal Services.

For example, a potential client could call in to a central intake number with a legal problem. If the client meets the qualifications and is accepted into the program, he or she could be given a list of Judicare attorneys in their geographic area and the client would contact the attorney directly. Another possibility is for the client to be matched with a particular attorney in the client's geographic region. Attorneys could be given the option to specify which types of cases they will handle. In Minnesota, for example, each attorney receives \$50/hour and must follow the fee schedule for a specific type of case. Unless scheduled otherwise, the maximum fee payable per case is \$1,000. However, the fee schedule ranges from paying \$50 for a simple will to \$250 for a Protection Order to \$1,250 for Appellate Court cases. In other places that use the Judicare system, an attorney is paid a small stipend not exceeding \$1,000, and any work he or she performs above that amount is considered pro bono. Attorneys could either apply to be a Judicare attorney or could be selected by a designated committee or person.

An advantage of implementing Judicare is that the legal service provider paying for the private attorney has more control over the funds being spent. This facilitates the budgeting process as well as makes the attorneys more accountable for the time they put into a case. With a limited budget, efficiency is critical for providing the best service to the most clients.

Legal Services Corporation requires 12.5% of its funds to be spent toward private attorney involvement.⁴⁵ Some states use this to pay private attorneys directly and others use the funds to pay for staff, resources and referral sources for PAI. For example, it is a requirement under LSC grant guidelines that there is follow-up with all private involvement attorneys at least once every six months. According to a source at Montana Legal Services, last year they referred 400 cases out to private attorneys; however, attorneys are not paid under Montana's PAI system. Instead, the money goes to pay staff members who do intake, match the client with a PAI and then conduct the follow-up.

Pro Bono Involvement

Direct litigation for low-income clients is impossible without attorneys willing to accept cases for which they receive little to no monetary compensation. Volunteer attorneys are essential for a state to provide legal representation to all of its citizens. The Wyoming State Bar has created a *Pro Bono/Pro Se Ad Hoc* Committee whose goal for 2009-2010 is to: "Take a leadership role on the issue of ensuring equal justice for all, with particular focus and attention on pro bono activities, pro se representation, playing a coordinating function with other access to justice partners, and exploring the timeliness in which justice is delivered."⁴⁶

⁴⁵ 45 C.F.R. § 1614 (1985), available at <http://www.lsc.gov/pdfs/1614CFR.PDF>.

⁴⁶ Information from Nancy Shore, Wyoming State Bar.

Other states with thriving legal service programs have been able to integrate their Bar Associations in various ways to further *pro bono* efforts. A successful delivery system in Wyoming should also collaborate with this newly formed committee to achieve its goals.

Currently there are 1,200 active, licensed attorneys, with 900 of those in private practice in Wyoming. While all attorneys are expected to provide *pro bono* service each year, it is not mandatory. Furthermore, there is no oversight or record keeping which tracks how many attorneys actually do *pro bono* work and the number of hours donated. As of February 2009, only 32 attorneys had completed the Pro Bono Pledge.

There are many ways that Wyoming can incorporate *pro bono* attorneys, especially in the more remote areas of the state. The American Bar Association has published a Rural Guide which details some of the innovative strategies that are being used in different states to meet the legal needs of indigent clients in rural areas. This Guide is also helpful because it provides a simple chart identifying the time, cost, staff and upkeep demands as low, medium or high.

One example of a strategy that is working is the Rural Law Center of New York which partners with local judges and law clerks to provide training to local lawyers. The participating lawyers receive free CLE credits as long as they commit to accepting *pro bono* cases in their area. In just over two years the program's number of committed attorneys jumped from 70 to 835. Coordinators estimate that the *pro bono* legal services provided in the first thirty months is valued at over \$1,250,000.⁴⁷

Many Bar Associations pursue recent law school graduates when recruiting *pro bono* attorneys. For law students, *pro bono* may be the first opportunity to perform legal work, while providing services essential to legal service organizations. "Pro bono and access to justice are at the core of what it means to be a lawyer," according to Susan Feathers, Executive Director for the Levin Center for Public Service.⁴⁸ "Through law-related service, law students gain invaluable legal skills, participate in the practice of law, and are inspired to commit to *pro bono* and public service for life. Increasing collaborations among law students, public interest lawyers, and the private bar are absolutely critical in a time of increasing need and decreasing resources."⁴⁹

The University of Wyoming College of Law is a resource that will be incorporated into a statewide delivery system. In addition to recruiting recent graduates for *pro bono*, there are ways to connect existing students to low-income clients such as volunteering at the centralized call center or staffing self-help centers. These efforts are in conjunction with the law school clinics already operating.

⁴⁷ ABA Rural Guide.

⁴⁸

<http://www.imakenews.com/eletra/gow.cfm?z=probono%2C306617%2C0%2C2883137%2Cb11>

⁴⁹ *Id.*

Other resources that can be utilized are the Casper College paralegal program and Legal Assistants of Wyoming. Casper College students and graduates can fulfill specific legal needs either as volunteers or at costs much lower than attorney rates. Legal Assistants of Wyoming is a nonprofit organization established in 1990 to promote continuing education, professionalism and networking to paralegals in Wyoming and the surrounding areas. “A legal assistant or paralegal is a person, qualified by education, training or work experience who is employed or retained by a lawyer, law office, corporation, governmental agency or other entity and who performs specifically delegated substantive legal work for which a lawyer is responsible.”⁵⁰

Wyoming’s legal community faces a challenge to consider how the practice of law may be reformed and to embrace the professional responsibility of assisting those who may otherwise be barred from accessing our legal system. Through continued, collaborative efforts with the private bar, ongoing training opportunities, the education of law students, and efforts to maintain the most qualified, highly trained attorneys, incredible progress to increase indigent access to the civil legal system can become a reality in Wyoming.

Ongoing Evaluation

A successful delivery system will require accountability and a rigorous system of checks and balances which ensure the best services are being provided while making the best use of limited resources. LSC suggests that an effective plan needs to have an articulated vision and over arching set of values which guide the planning effort. Measurable goals and objectives should be stated with specific time frames for their accomplishment. Responsibility for completion of tasks should be assigned to specific individuals to guarantee that goals are accomplished. Finally, all necessary stakeholders should be involved.⁵¹

Coordination With County Libraries

Many low-income individuals lack home access to a computer or internet. Even if home access is available, it may not be safe to procure legal advice if domestic violence is involved. All public libraries now have free access to the internet in Wyoming, and as such the libraries offer an invaluable venue in which low-income potential clients can procure advice from the website.

To help facilitate this goal, legal service providers would inform librarians about the website and its features. When a person comes into the library seeking legal information, a librarian could recommend the website. Libraries exist in small towns throughout Wyoming, and integrating them as part of the overall infrastructure of legal services further reduces cost and increases coverage. In addition to providing internet

⁵⁰ <http://www.nala.org/whatis.htm>

⁵¹ http://www.lri.lsc.gov/state_planning/rvwstpl/mtfd.htm

access, libraries would also provide ideal locations for self-help centers similar to those that can be placed in courthouses.

WYOMING ACCESS TO JUSTICE COMMISSION

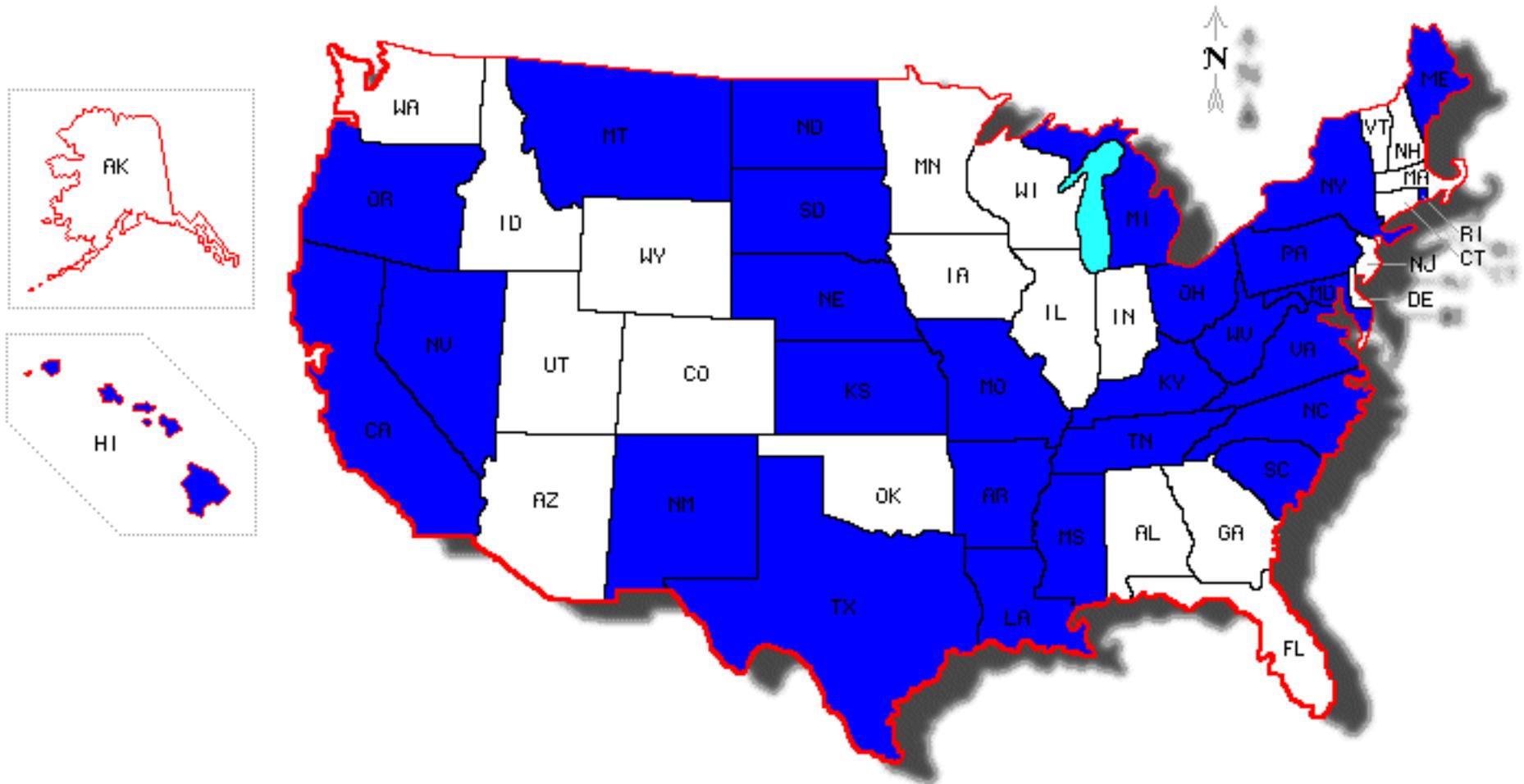
Summary of State Funding for Legal Services Across the Country

December 11, 2009*

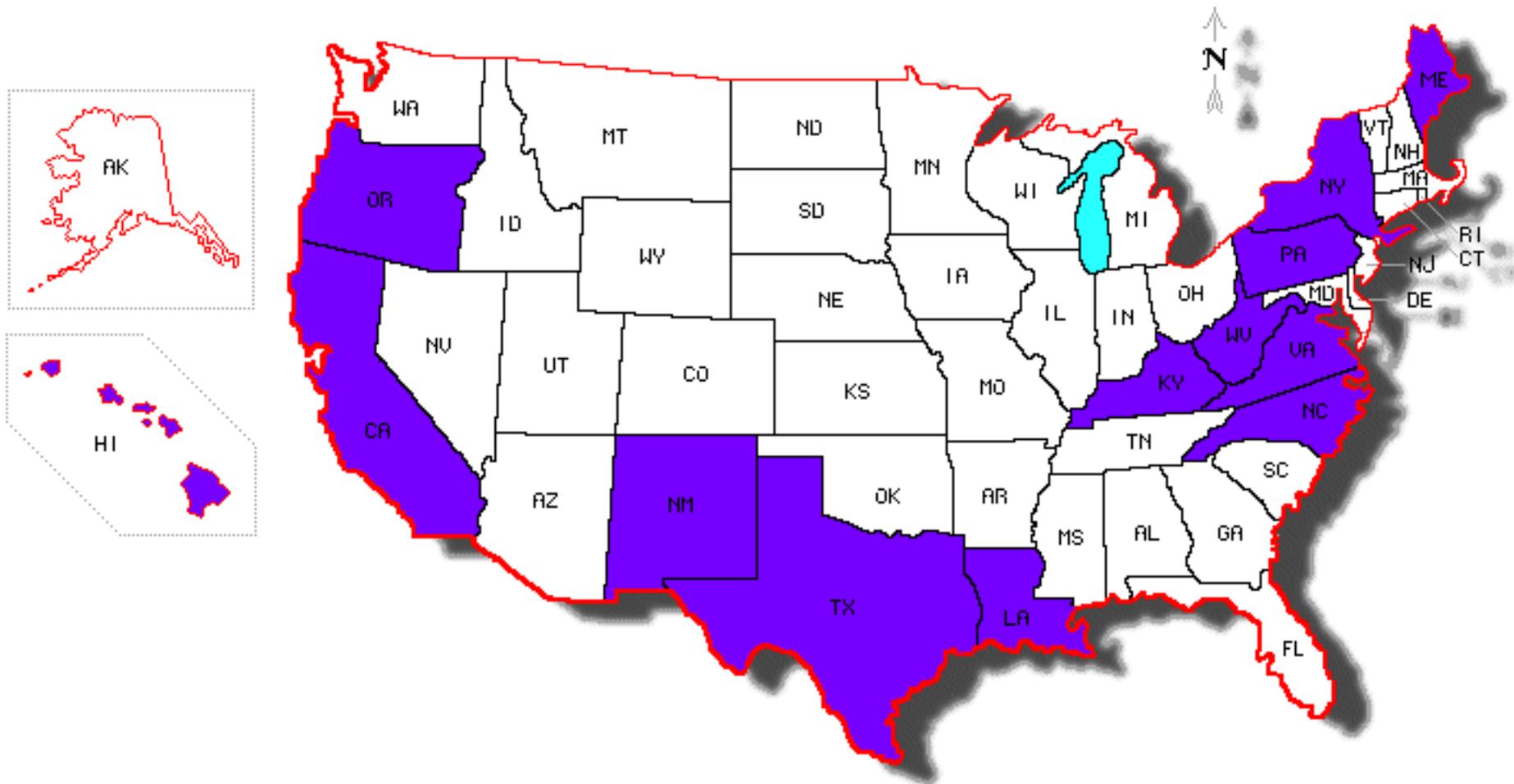
Quick Facts:

- ▶ 28 of 50 states fund or partially fund legal services through filing fees and other court fees
- ▶ 33 states and the District of Columbia fund or partially fund legal services through legislative appropriations
- ▶ 13 states fund legal services through both court fees and legislative appropriations
- ▶ Of the 48 states that provide funding for legal services, 26 distribute funds through the judicial branch
- ▶ One state, Ohio, administers state funding of legal services through the Public Defender's Office
- ▶ Executive agencies administer or partially administer state legal services funding in 17 states and the District of Columbia
- ▶ In 4 states and the District of Columbia, the Attorney General's Office administers or partially administers the funding
- ▶ Wyoming and Idaho provide no state funding for legal services (South Dakota initiated a filing fee in 2009)

Blue Shading = Filing Fees and Other Court Fees



Purple Shading = Both Court Fees and Appropriations



State-By-State Summary of Legal Services Funding

STATE	COURT FEE?	APPROPRIATION?	JUDICIAL ADMIN.?	EXECUTIVE ADMIN.? (AGENCY)	OTHER ADMIN.? (GROUP)	NOTES
AL	No	Yes				<i>(Please note: the exact funding process in Alabama is unclear – we are researching)</i>
AK	No	Yes	No	No	Yes (Alaska Legal Services Corporation)	Appropriation to provider
AZ	No	Yes	Yes	Yes (Dept. of Economic Security)	Yes (Arizona Foundation for Legal Services & Education (AFLSE))	Administrative Office of Arizona Supreme Court administers elder law hotline; Dept. of Economic Security contracts with AFLSE to administer domestic violence legal funding
AR	Yes	No	No	Yes (Treasurer, Auditor and Chief Fiscal Officer)	No	Filing fees paid into special Public Legal Aid Fund on books of State Treasurer, Auditor and Chief Financial Officer
CA	Yes	Yes	Yes	No	Yes (Legal Services Trust Fund Commission)	Funds appropriated to the State Judicial Council, which oversees and distributes funds to Legal Services Trust Fund Commission (IOLTA program)
CO	No	Yes	Yes	No	No	Appropriation to State Court Administrator who makes grants to providers
CT	No	Yes	Yes	No	Yes (Bar Foundation)	Funds are a legal services line item in Judicial Department's budget; Judicial Dept. allocates to Bar Foundation for distribution

STATE	COURT FEE?	APPROPRIATION?	JUDICIAL ADMIN.?	EXECUTIVE ADMIN.?(AGENCY)	OTHER ADMIN.?(GROUP)	NOTES
DE	No	Yes	No	No	Yes (appropriation to "Grant-In-Aid" program and Bar Foundation)	Direct appropriation to providers or to Bar Foundation for distribution
DC	No	Yes	No	Yes (Attorney General)	Yes (Bar Foundation)	Funding moves from Attorney General to D.C. Bar Foundation
FL	No	Yes	No	Yes (Dept. of Community Affairs)	Yes (County Governments and Bar Foundation)	In 2003-2004, Florida dropped filing fees as funding source, but required counties to fund legal aid. Appropriation to Dept. of Community Affairs which makes grant to Bar Foundation makes distribution.
GA	No	Yes	Yes	No	Yes (County Governments)	Cobb, Fulton and DeKalb Counties support pro bono programs through filing fees. State Administrative Office of the Courts (AOC) administers appropriation and makes grants to providers
HI	Yes	Yes	Yes	No	Yes (Hawaii Justice Foundation)	Funding collected by Administrative Director of the Courts who deposits them in special Indigent Legal Assistance Fund; ILAF grants to Hawaii Justice Foundation (IOLTA Program, which distributes funds to providers

STATE	COURT FEE?	APPROPRIATION?	JUDICIAL ADMIN.?	EXECUTIVE ADMIN.?(AGENCY)	OTHER ADMIN.?(GROUP)	NOTES
ID	No	No	No	No	No	No State Funding
IL	No	Yes	No	Yes (Attorney General)	Yes (Illinois Equal Justice Foundation (IEJF))	Attorney General's Office distributes appropriated funds to IEJF, which makes grants to providers
IN	No	Yes	Yes	No	No	Appropriation administered by Division of State Court Administration
IA	No	Yes	No	Yes (Attorney General)	No	Attorney General disburses funds by contracting with eligible nonprofit organizations, which provide legal services
KS	Yes	No	Yes	No	No	Grant guidelines promulgated by Kansas Supreme Court; Court administers funds
KY	Yes	Yes	Yes	No	Yes (Access to Justice Foundation)	Filing fee funds deposited in General Fund of State Treasury; Chief Justice of Supreme Court designates nonprofit organization that receives funds; appropriation goes directly to Access to Justice Foundation, which distributes funds to six programs

STATE	COURT FEE?	APPROPRIATION?	JUDICIAL ADMIN.?	EXECUTIVE ADMIN.?(AGENCY)	OTHER ADMIN.?(GROUP)	NOTES
LA	Yes	Yes	Yes	Yes (Attorney General)	No	Filing fees applied on local basis for pro bono support and funding derived from filing fees administered by local courts; Appropriation part of Attorney General's budget
ME	Yes	Yes	Yes	No	Yes (direct appropriation to service providers)	Supreme Judicial Court (or designee) and court-appointed commission administer the filing fee fund; appropriation made directly to service providers
MD	Yes	No	No	No	Yes (Maryland Legal Services Corporation)	MLSC disburses filing fee funds, appropriated funds, and IOLTA funds to service providers
MA	No	Yes	No	No	Yes (Massachusetts Legal Assistance Corporation (MLAC))	Appropriation goes directly to MLAC, which provides services and contracts with other providers
MI	Yes	No	Yes	No	Yes (Bar Foundation)	Filing fee funding administered by State Court Administrator with recommendations from Bar Foundation; Legislature identifies service providers who receive funds on a 5-year basis
MN	No	Yes	Yes	No	No	Appropriation is part of state court system's budget; Supreme Court establishes 11-person advisory committee to review applications and select recipients

STATE	COURT FEE?	APPROPRIATION?	JUDICIAL ADMIN.?	EXECUTIVE ADMIN.?(AGENCY)	OTHER ADMIN.?(GROUP)	NOTES
MS	Yes	No	Yes	No	No	Filing fee funds administered by Supreme Court
MO	Yes	No	Yes	No	No	Filing fee funds paid into the Basic Legal Services Fund, which is administered by Missouri Supreme Court
MT	Yes	No	Yes	No	No	Filing fee funds administered by Supreme Court Administrator, who designates non-profit organizations that receive funds
NE	Yes	No	No	No	Yes (Commission on Public Advocacy)	In August 2009, administration of the Legal Aid and Services Fund (based on filing fees) moved from State Court Administrator to Commission on Public Advocacy
NV	Yes	No	No	No	Yes (county and local governments)	Filing fees collected by county clerk, who passes funds to county treasurer, who funds legal services programs
NH	No	Yes	No	No	Yes (New Hampshire Legal Assistance)	Direct appropriation to New Hampshire Legal Assistance
NJ	No	Yes	No	Yes (Dept. of Community Affairs)	No	Appropriation is line item in Dept. of Community Affairs' budget

STATE	COURT FEE?	APPROPRIATION?	JUDICIAL ADMIN.?	EXECUTIVE ADMIN.?(AGENCY)	OTHER ADMIN.?(GROUP)	NOTES
NM	Yes	Yes	No	Yes (Dept. of Finance & Admin., Local Govt. Division)	Yes (Commission)	Local Government Division of Department of Finance and Administration administers Civil Legal Services Fund; 5-member Commission makes grants to providers
NY	Yes	Yes	No	Yes (Governor's Office)	Yes (direct appropriation to service providers)	Legal Services Assistance Fund, based on fees collected when party makes criminal records search, is administered by Governor's Office and Legislative Leadership; direct appropriation to service providers
NC	Yes	Yes	Yes	No	Yes (State Bar and Bar Foundation)	Filing fee funds and appropriated funds move from Administrative Office of the Courts, to the State Bar, to the IOLTA Program for distribution to service providers
ND	Yes	No	Yes (Joint Special Commission)	Yes (Joint Special Commission)	No	Filing fee funds deposited with the State Treasurer into an Indigent Civil Legal Services Fund, which is administered by a Special three-person commission made up of the lieutenant governor, the director of the office of management and budget, and the state court administrator; legal services providers apply to the commission for grants

STATE	COURT FEE?	APPROPRIATION?	JUDICIAL ADMIN.?	EXECUTIVE ADMIN.?(AGENCY)	OTHER ADMIN.?(GROUP)	NOTES
OH	Yes	No	No	Yes (Public Defender)	Yes (Ohio Legal Assistance Foundation)	Filing fee revenue collected by the State Treasurer for deposit in the Legal Aid Fund; the Fund is administered by the State Public Defender and the Ohio Legal Assistance Foundation
OK	No	Yes	Yes	No	No	Appropriated funds placed in Supreme Court's Legal Services Revolving Fund; distribution of funding administered by the Administrative Director of Courts
OR	Yes	Yes	Yes	No	Yes	All revenues deposited with the State Court Administrator, who provides funding to the State Bar for distribution to providers
PA	Yes	Yes	Yes	Yes (Dept. of Public Welfare)	Yes (IOLTA Board)	The Pennsylvania IOLTA Board administered the funding; any balance remaining after distribution of the filing fee surcharge is held by the Supreme Court
RI	Yes	No	Yes	No	Yes (Rhode Island Legal Services)	The Superior Court collects filing fee surcharges and sends revenues directly to Rhode Island Legal Services
SC	Yes	No	No	Yes (Treasurer)	Yes (Commission on Indigent Defense)	Funding moves from Treasurer to Defense of Indigents Per Capita Fund, which is administered by Commission on Indigent Defense, to service providers

STATE	COURT FEE?	APPROPRIATION?	JUDICIAL ADMIN.?	EXECUTIVE ADMIN.?(AGENCY)	OTHER ADMIN.?(GROUP)	NOTES
SD	Yes	No	No	Yes (Treasurer)	Yes (Commission on Equal Access to Our Courts CEAOC)	Funding moves from Treasurer to Commission on Equal Access to Our Courts Fund, which is administered by the CEAOC, which makes grants to service providers
TN	Yes	No	Yes	No	No	Filing fee revenues and bail bonds tax revenues deposited in the Civil Legal Representation of Indigents Fund (part of General Fund); funds allocated to service providers by Supreme Court
TX	Yes	Yes	Yes	Yes (Comptroller and Attorney General)	Yes (Texas Equal Access to Justice Fund – disbursing agent)	Filing fee revenues paid to Comptroller, who deposits revenues in Basic Civil Legal Services Account of judicial fund; funding provided to service providers approved by the Supreme Court; Appropriated funds are line item in Attorney General’s budget; AG has interagency contract with Supreme Court, which authorizes the Texas Equal Access to Justice Fund to distribute funding
UT	No	Yes	Yes	No	No	Funds go to Administrative Office of the Courts for distribution to service providers through competitive grant process

STATE	COURT FEE?	APPROPRIATION?	JUDICIAL ADMIN.?	EXECUTIVE ADMIN.? (AGENCY)	OTHER ADMIN.? (GROUP)	NOTES
VT	No	Yes	No	No	Yes (Vermont Legal Aid Society)	Vermont Legal Aid Society receives direct appropriation from legislature
VA	Yes	Yes	No	No	Yes (State Bar and Legal Services Corporation of Virginia)	All funds paid into special fund within State Bar's fund in the state treasury; distributed directly to Legal Services Corporation of Virginia
WA	No	Yes	Yes	No	No	Funds appropriated to Office of Civil Legal Aid, an independent judicial branch agency, which contracts with service providers
WV	Yes	Yes	No	Yes (Dept. of Health & Human Services)	Yes (Legal Aid of West Virginia)	All funds deposited with state treasury; Department of Health & Human Services and Family Protection Services Board make grants to Legal Aid of West Virginia, which uses and distributes funds
WI	No	Yes	No	Yes (Dept. of Administration)	Yes (IOLTA Program)	Appropriation goes to Dept. of Administration, which pay the amount appropriated to the IOLTA Program for distribution to service providers
WY	No	No	No	No	No	No State Funding, as of 2009

*This information was compiled by Meredith McBurney, Resource Development Consultant, ABA Resource Center for Access to Justice Initiatives, a project of the Standing Committee on Legal Aid and Indigent Defendants.