Access to Justice

FORGOTTEN

for Those With

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Moderate Incomes
The University of Maryland School of Law, whose clinical law program is one of the nation’s leaders in providing legal services to the poor, joined with other members of the state’s legal community to identify more accessible legal services for the state’s 750,000 moderate income households. The University of Maryland School of Law has partnered with the Maryland State Bar Association, the Maryland Institute for Continuing Professional Education of Lawyers (MICPEL) and the University of Baltimore School of Law to lead the Moderate Income Access to Justice Project. The project is considering various ways in which the bar might provide unserved consumers with legal services at reasonable costs and make such representation financially viable for lawyers. The project partners created a 34-member Advisory Task Force to make recommendations about how the bar, bench and state government can work together to make justice more accessible to moderate income persons, and the task force has issued its preliminary report. “It is critically important that the partners in the Maryland legal profession have come together to deal with this problem,” says the Jacob A. France Professor of Public Interest Law Michael Millemann, who coordinated the effort of the 34-member task force and is principal author of the task
force’s report. “I don’t know anywhere else in the country where the legal community has come together in this way to say, ‘This is our problem.’ The necessary changes can’t come from just the bar or the bench or the law schools; we need a collective solution.”

The access to justice problem for moderate income households was described in a 1995 American Bar Association (ABA) nationwide study. The Maryland project did a follow-up study focusing on Marylanders. Both studies found that moderate income individuals—those who earn between $15,000 and $45,000 a year—often cannot or do not seek legal services when they need them. “We rely upon our legal system to resolve the many disputes that arise in our highly regulated society,” the task force reports. “The core assumption, however, is that Maryland litigants have equal access to legal representation that often is essential to balance the process, is simply not true for many moderate income people.” The Maryland study concluded that 72 percent of the respondents who had legal problems did not consult a lawyer, and of the 28 percent who did, 33 percent retained counsel.

Summarizing the task force’s preliminary report, Herbert S. Garten ’51, a principal in the Baltimore law firm of Fedder and Garten who chaired the task force, says “We hope to develop some solutions to the access to justice problem that will help private lawyers expand the legal services they provide to moderate income people, while making a living and doing an appropriate job for the client.”

The Maryland survey respondents most frequently said that they did not seek legal help because of cost or their lack of knowledge that the “problem was a legal problem that a lawyer could provide cost-effective help in resolving.” Some feared the advisory process itself. “The data suggest that we must address the access to justice problem, not only by providing more efficient representation to unserved clients, but also by giving clients alternatives to the adversary process and improving efficiency and fairness of that process,” Garten says.

The task force’s recommendations include:

Legal Education. The University of Maryland School of Law, University of Baltimore School of Law, and the Maryland Institute for Continuing Professional Education for Lawyers should revise their curricula to address legal concerns of moderate income citizens.

Justice Resource Center. Create a Justice Resource Center, or a local network of resource centers, that would establish a statewide legal hotline for moderate income people who inquire about whether they need a lawyer to resolve a problem, and, if so, how a lawyer would help. The center would provide information through libraries, municipal buildings, schools, social services and community centers.

Courthouse Legal Information Centers and Expanded Use of Mediation and Conciliation. In partnership with the judiciary, the resource center would create legal information centers in courthouses and develop user-friendly legal forms. “Many people who do not have a lawyer look for legal information in courthouses,” the report says. “They should be able to find it there.” The resource center will concentrate on expanding mediation and conciliation programs to resolve disputes.

Prevention. The resource center will develop a model for low cost legal checkups that might spot potential legal problems before they turn into expensive litigation.

Prepaid, Group and Limited Representation Plan. Organize a statewide conference on a type of legal insurance called prepaid legal plans or group legal plans and limited legal representation. Legal plans entitle its members to reduced cost services for a modest premium payment. Limited legal representation involves lawyers and clients sharing responsibility for the work needed to resolve a legal problem, cutting the cost to the consumer.

Statewide Legal Information Database and Small Firm Laboratory. The report indicates that the root cause of access to justice is economic. The Justice Resource Center will establish a statewide legal information computer database for lawyers who wish to serve the moderate income client. The center will consult with these lawyers and develop new approaches to provide services in needed areas. The center will help develop an experimental solo or small firm law office to test new approaches to meet the needs of moderate income clients.
Increased Attorney Participation in Reduced-Fee Panels. The resource center encourages more lawyers to provide reduced fee services for moderate income clients.

Eliminating Arbitrary Government Barriers to Justice. The report asks the governor to impanel an intergovernmental access to justice commission to simplify and make more understandable state administrative regulations, policies and procedures that govern people and businesses.

The Enhanced Role of Private Business and Organized Labor. Leaders in business and organization will be invited to the statewide conference on prepaid and legal service plans. The report encourages the use of prepaid plans and proposes that reforms be considered to expand their use.

Garten explains that the task force work is a long-term project that will not solve all of the problems at once. “Ultimately, it can be a benefit to the public and the bar itself,” says Garten. “We are trying to match lawyers who are interested in this field with the working poor and middle class.”

Milleman credits Roy Hoffberger ’50 for “starting the conversation that produced the project,” and Dean Donald Gifford “for supporting the project as part of the law school’s mission.”

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