

The Civil Access to Justice Act of 2009

“Equal justice under law is not merely a caption on the façade of the Supreme Court building. It is perhaps the most inspiring ideal of our society . . . it is fundamental that justice should be the same, in substance and availability, without regard to economic status.” Justice Lewis Powell

In many parts of the country today, more than 80 percent of those who need civil legal representation are unable to obtain it. Nationally, 50 percent of eligible applicants for legal assistance from federally funded programs – families who make at or less than 125% of the poverty line, or about \$27,500 – are turned away largely because such programs lack adequate funding. That translates into over one million eligible cases per year. As the economy continues to decline, the number of individuals needing legal assistance only increases. This year, requests for services have risen by 30 percent or more in some areas of the country.

The federal commitment to legal services is not as effective as it needs to be. In 1974, Congress established the Legal Services Corporation (LSC) – a private, non-profit corporation funded by Congress – to fund civil legal aid. LSC, however, has not been reauthorized since 1981, and federal funding has been slashed since 1995 – from \$415 million to \$350 in FY’08, with only a recent increase to \$390 million for FY’09. Congress, moreover, has imposed severe restrictions on the use of both federal as well as non-federal funds – impeding attorneys’ ability to provide the most effective legal assistance.

It is necessary to recommit to the principle of “Equal Justice Under Law” and improve both the quantity and quality of legal services in this country. The Civil Access to Justice Act of 2009 does so in five main ways:

- **Increases the authorized funding level for LSC to \$750 million**, which is approximately the amount appropriated in 1981, adjusted for inflation, which was the high-water mark for LSC funding. At the time, this level was seen as sufficient to provide a minimum level of access to legal aid in every county. Adjusted for inflation, this “minimum access” level would need to be about \$750 million today.
- **Lifts many of the restrictions** currently placed on legal tools that LSC-funded attorneys can use to represent their clients. The bill lifts the prohibition on collecting attorneys’ fees, permits legal aid attorneys to bring class-action suits grounded in existing law and permits lobbying with non-federal funds. In the spirit of compromise, the bill does maintain the prohibition on abortion related litigation as well as many of the limits on whom LSC-funded programs can represent, including undocumented immigrants (with limited exceptions such as victims of domestic violence), prisoners challenging prison conditions and people charged with illegal drug possession in public housing eviction proceedings.
- **Lifts all restrictions, except those related to abortion litigation, on the use of non-federal funds.** Lifting these restrictions allows individual states, cities and donors the ability to determine themselves how best to spend non-federal funds to ensure access to the courts.
- **Provides for better governance at LSC.** Recent GAO reports highlighted the need for better corporate governance and oversight. A central feature of the bill is provisions to improve corporate practices.
- Authorizes a grant program from the Department of Education to **expand law school clinics**. Not only are law students a significant resource for legal services, but clinics are a bridge to careers in legal services and a professional career involving *pro bono* for young lawyers.

The bill is supported by, among others, the American Bar Association, Brennan Center for Justice, National Legal Aid & Defender Association, National Organization of Legal Service Workers and United Auto Workers.

Please contact Daniel Goldberg in Senator Harkin’s office at 224-3254 if you have any questions.