Judicial Branch News

July, August, September 2007

Drug Treatment Court Funding

A New Challenge for the Judicial Branch

During the 2007 special session, the Montana Legislature provided limited state funding for drug treatment courts. Lawmakers appropriated $1,345,000 from the state general fund to the Supreme Court for drug court operations for fiscal years 2008 and 2009. According to the appropriation language, the money may be used to provide grants to drug courts and for up to one full-time administrator, ongoing review of the courts' operations, and development of policies necessary for administering the provision of grants to the courts.

After the session, the Office of Court Administrator (OCA) sought assistance from the National Center for State Courts in developing a policy for allocating the funds. Using grant money from the Bureau of Justice Assistance, the Center contracted with Dr. Cary Heck, a professor of criminal justice at the University of Wyoming, to assist the OCA. Dr. Heck, a former drug court program director for the states of Louisiana and Wyoming, has authored several articles on drug court topics such as process evaluations and performance measurements.

To quickly gather basic information on Montana's drug courts, the OCA administered a written survey of jurisdictions with operational drug court programs. Staff used the survey results to develop a profile of each court. The office then conducted telephone interviews with drug court judges and staff to solicit input on how the biennial appropriation ought to be allocated.

12 Drug Treatment Courts, including 4 adult courts, 4 juvenile courts and 4 family courts, are eligible for the funding granted by the 2007 Legislature.

Information from the survey and interviews guided development of a draft policy defining a procedure for distributing the appropriation. At its July meeting, the District Court Council spent considerable time refining the policy, which was unanimously approved without

revision by the Supreme Court in early August.

The policy permits the OCA to reserve up to 15 percent of the appropriation for a full-time statewide administrator and for development and implementation of a statewide database for collecting, reporting, and analyzing performance measures for the drug courts.

A portion of the funding will also be used to conduct a statewide training conference. In addition, the policy identifies those courts that are eligible to apply for grants and defines the grant application procedure, including the contents of the application, allowable and prohibited expenses, evaluation of applications, and conditions for receiving the grants.

In accordance with the policy, Chief Justice Karla Gray has asked District Court Judges Jim Haynes and David Rice to assist the OCA in reviewing the applications and determining the amount of each grant. The OCA will notify grant applicants of their awards by September 21. Funds will be available on October 1.

Initial steps have been taken to hire a statewide drug court coordinator. The job announcement is available at: MJS Job Order Detail Page.

If you have any questions or would like more information about the drug court funding, call or e-mail Lois Menzies at 406.841.2957 or lmenzies@mt.gov.

Legislature Funds Court-Based Self-Help Law Program

Submitted By: Tara Veazey

In July of this year, Montana became part of a growing number of states with resources dedicated to improving access to justice for self-represented litigants.

With strong support from the Chief Justice, District Court Judges, Courts of Limited Jurisdiction, Clerks of District Court, and dozens of groups including AARP, the Coalition Against Domestic and Sexual Violence, Consumer Credit Counseling Services, Montana Legal Services Association, and the State Bar of Montana, the 2007 Legislature included $505,000 one-time-only funding in the Court's budget for the creation of a Self-Help Law Program.

The proposal for the program was initially introduced in the Legislature as House Bill 60 (HB60), a bipartisan committee bill unanimously supported by the Law and Justice Interim Committee (LJIC). At the direction of a resolution passed by the 2005 Legislature, the LJIC spent nearly a full year studying the unmet legal needs of low-income Montanans in non-criminal matters.

Funding for the program proposed in HB60 was eventually included in House Bill 2 (HB2) during the 2007 Special Session at half the amount originally proposed by the LJIC and as one-time-only funding. HB2 mandates that the funding be used to develop, maintain, and coordinate resources to support self-represented litigants.

With this funding, the Montana Supreme Court, local courts, clerks of district courts, and service providers have a unique opportunity to address a growing and critical challenge to Montana courts.

Currently, over 10% of all civil district court cases and 40% of all dissolution and parenting plan cases in Montana have at least one party representing themselves. In addition, an estimated 40,000 self-represented litigants file or defend cases in Montana's courts of limited jurisdiction each year.

Over the past several decades, Montana judges and clerks have witnessed a national trend of increased use of the court system by self-represented litigants struggling to get their cases heard and navigate complex procedures.

Without adequate resources, assistance, and education, overwhelmed self-represented litigants can drain the resources and time of our courts, judges, clerks of court, and even opposing counsel. Uninformed self-represented litigants also have a hard time making effective claims and following correct procedures, ultimately jeopardizing the fairness of judicial outcomes and eroding public confidence in our legal system.

Although Montana Legal Services Association (MLSA) does provide assistance to low-income Montanans with civil legal problems, with current resources, MLSA cannot begin to help all of the people who apply for services. MLSA has only 13 lawyers available to provide direct representation to the over 180,000 people who qualify for legal services across this vast state.

Likewise, there is only one reference librarian at the State Law Library providing research and resources to attorneys and self-represented patrons alike. Unfortunately, the existing *pro bono* programs are also insufficient to meet all of the unmet legal needs. Furthermore, *pro bono* programs are not always viable options in Montana's most rural areas, where there are few lawyers and high potential for conflicts of interest. Unfortunately, without help, relatively small legal problems can escalate into more serious issues that burden not only the individual but also their families, communities, and the courts.

The new Self-Help Law Program will make significant strides in ameliorating these threats to low-income Montanans and our courts. In order to maximize effectiveness and efficiency, the Supreme Court Administrator's Office plans to contract with organizations and local agencies for the development of core programmatic functions. These include:

- A form development contract will be finalized with an organization able to develop user-friendly and legally accurate forms and instructions for self-represented litigants. Priorities for form development will be set based on court filing statistics, data from the State Law Library regarding inquiries by self-represented litigants, information regarding requests for assistance from MLSA, and with input from the Montana Supreme Court Commission on Self-Represented Litigants. The contract will include funding for a full-time attorney devoted to the development of forms and instructions and an obligation by the funding recipient to conduct thorough evaluations of all forms, including testing by potential form users and feedback

from judges, clerks, lawyers, and service providers.

- The bulk of the remaining Self-Help Law Program funds will be distributed to local courts and/or clerks of court for the development and staffing of court-based self-help law centers and workstations. Although the details of these plans are still being worked out, the Administrator's Office hopes to contract with two urban jurisdictions for the creation of staffed self-help law centers, where members of the public can go to find legal information, download forms, as well as get referrals to legal services organizations, *pro bono* programs, and other helpful community organizations.

- Staff and volunteers of the self-help law centers will be able to provide remote assistance to users of smaller self-help workstations in rural jurisdictions via telephone, instant "chat" internet features, and/or webcams. In addition, the Administrator's Office will be developing a user-friendly guide on how to find legal information, forms, and assistance for all clerks of court to make available at their public computer workstations.

- Finally, the Administrator's Office will be working with the University of Montana School of Law to explore ways that law students can be involved with the Self-Help Law Program, from volunteering at self-help workstations to creating community legal education materials.

Although public and court support for the program was overwhelming during the legislative session, there also has been some resistance to and fear about the effects of a self-help law program. Specifically, some have expressed concern that the program will increase litigation, flood the courts with self-represented litigants, and increase the workload of judges and clerks.

Evaluations from similar programs in other states and locales have consistently proved these fears to be unfounded. An analysis of evaluations of 32 self-help law programs has shown that providing self-represented litigants with forms and legal information can result in more satisfied and informed litigants, quicker resolution of controversies, increased likelihood of out-of-court settlements, and more efficient hearings for those cases that do go to trial.

It is a reality that courts around Montana are already experiencing substantial numbers of self-represented litigants. We cannot afford to ignore this trend, but rather must work to ensure that these litigants have meaningful access to justice. Building resources for people to handle their own simple matters will allow scarce MLSA and *pro bono* resources to be directed to more complex and contested litigation. With the cooperation of interested courts and service providers across the state, the relatively modest funding earmarked for the Self-Help Law Program will go a long way toward the promise of "equal justice under the law."

If you have any input, questions, or concerns regarding the Self-Help Law Program, please contact Tara Veazey at tveazey@mt.gov or (406) 841-2904.

**Tara Veazey will be acting as the Self-Help Program Administrator until January, 2008.*

CASA Programs Receive New Funding

Court Appointed Special Advocate programs in Montana are seeing the benefit of increased state funding from the 2007 Legislature. Working in partnership with the CASA programs, the Judicial Branch secured an additional $185,600 per year in increased funding for these programs, which provide volunteer advocates for children involved in abuse and neglect cases. The funding - allocated based on the size of the program – will help stabilize programs and guarantee that volunteers are available when needed.

Second Children's Summit a Huge Success

The Second Annual Children's Summit, held in late August, was a resounding success. Approximately 175 attendees, including district court judges, court staff, county attorneys, public defenders, contracted attorneys, guardians ad litem, CASA directors and CFSD personnel, had the opportunity to listen to moving stories by three Foster Club All Stars/Alumni and to participate in a mock permanency hearing, while renewing their commitment to children involved in the court system.

The Montana Supreme Court, the Attorney General's Office, the Montana Office of Public Defender and DPHHS Child and Family Services Division co-sponsored the second Montana State Leadership Summit on the Protection of Children. This Summit continued the mission of our first one, which was to promote timely permanency for children and to improve the consistency, continuity, and uniformity of court practice statewide.

Chief Supreme Court Justice Karla Gray welcomed the participants and shared that since the first Summit, the appellate procedure has been examined and changes implemented that will expedite a child's case through the appeal process.

Participants also attended sessions on various topics pertaining to recent statute changes and new federal requirements, such as

- children in the courtroom, with the assistance of the National Center for State Courts;

- the evolving role of a child's attorney; and
- judicial oversight through data collection and analysis, with the assistance of the National Child Welfare Resource Center for Organizational Improvement.

As with the first Summit, the two-day conference allowed professional groups to brainstorm solutions to problems and to share best practices. Regional working groups, formed at the first Summit and consisting of members of the various disciplines from geographic areas in the state, shared their success stories with everyone at Thursday's luncheon, paving the way for them to meet again that afternoon to continue building on their action plans. A few of the successes reported were:

- collaborative meetings being held on a regular basis, resulting in increased communication between all disciplines,
- a family justice coordinating council being formed,
- changing court calendars from "cattle call" scheduling to specifying set times for hearings,
- the implementation of an accountability court,
- promotion of open adoptions, and
- development of an "open discovery" process to expedite cases.

Goals set for the coming year include implementing a CASA program, hiring additional GALs, tackling Tribal/ICWA issues and working to increase services to families.

Insurance Time – Annual Change Coming Up

Your annual opportunity to review and modify your health insurance choices is coming up soon. Please pay close attention to your mail for the "annual change" packet and return all information on time.

Remember – you must elect any "flex" deductions on an annual basis.

Welcome New Employees

Travis Ahner
Law Clerk
Supreme Court

Wendy Allen
Office Ass't
6th Judicial District

Jennifer Armour
JPO
4th Judicial District

Todd Baker
Law Clerk
2nd Judicial District

Aaron Bouscher
Law Clerk
Supreme Court

Mark Brookman
JPO
20th Judicial District

Staci Card
Water Crt. Clerk
Water Court

Chad Cleveland
IT Business Analyst/Trn
Court Administration

Matt Cochenour
Law Clerk
Supreme Court

Brenda Coppede
Law Clerk
18th Judicial District

Amanda Davenport
Law Clerk
Supreme Court

Dineen Dawson
Office Ass't
18th Judicial District

Jeff Dickson
Law Clerk
Supreme Court

Megan Dishong
Law Clerk
Supreme Court

Nicole Ducheneaux
Law Clerk
Supreme Court

Serina Everett
Drug Court Coord.
7th Judicial District

Sandra Francetich
Court Reporter
8th Judicial District

Katie Harper
Law Clerk
Supreme Court

Samantha Harper
Law Clerk
Supreme Court

Erin Israel
JPO
16th Judicial District

Sally Johnson
Pro Se Law Clerk
Supreme Court

Megan Lane
Law Clerk
Supreme Court

Keri Lay
Prob Prg Ass't
10th Judicial District

Heather Mathews
Law Clerk
4th Judicial District

Brian Miller
Law Clerk
Supreme Court

Shannon Piccolo
Law Clerk
13th Judicial District

Debra Rappe
Jud Ass't
8th Judicial District

Karen Redden
Office Ass't
22nd Judicial District

Madison Ruetten
Com Sup Spec
4th Judicial District

Heather Sather
Law Clerk
13th Judicial District

Pamela Schneider
Jud Ass't
4th Judicial District

Lois Schyler
IT Business Analyst/Trn
Court Administration

Kristin Simms
Office Ass't
21st Judicial District

Craig Wahl
Law Clerk
13th Judicial District

Nicole Tanneheimer
JPO
11th Judicial District

Lanette Young
Court Transcriptionist
7th Judicial District

The Judicial Branch newsletter is published 4 times per year. Comments can be directed to: bmclaughlin@mt.gov