

Press Release

(please refer to <http://courts.mt.gov/content/supreme/boards/a2i/docs/justicegap-mt.pdf>)

“The Justice Gap in Montana: As Vast as Big Sky Country” was completed for the Montana Supreme Court’s Access to Justice Commission by Carmody and Associates in July 2014. This statewide study was precipitated by a legal needs assessment conducted in Montana in 2010. That study found that in the prior year nearly half of low-income Montanans had at least one civil legal problem and almost one-third had two or more. However, more than three-fourths of those experiencing legal problems had not done anything in response. The Commission wanted to know why, and retained national expert Kelly Carmody and Associates to study and report on the gaps and barriers to legal assistance for low- to moderate-income Montanans.

The study looked specifically at legal assistance currently available to these Montanans, and the gaps and barriers to obtaining that assistance. Additionally, the Commission wanted to know more about the populations that need particular consideration and possible goals and strategies for addressing the gaps and barriers identified.

The report presents several findings of critical importance to Montana. Nearly half of all low-income Montanans have at least one civil legal problem each year that is not addressed. Inability to afford an attorney and a severe shortage of free and reduced-cost legal help are the primary reasons tens of thousands of low- and moderate-income Montanans cannot get legal help that they need. The study identified several other groups of Montanans who are particularly vulnerable in this area including the elderly, persons with disabilities, veterans, low-wage workers, victims of domestic violence, and Native Americans on and off reservations.

The study made clear why so many Montanans are unable to get legal help. Legal services attorneys, including the staff of Montana Legal Services Association, pro bono attorneys, staff of the Montana Supreme Court – Court Help Program, are limited in number and only able to assist less than one in ten of those who need legal help. In addition, free and reduced fee services that are available are often too distant for those who live away from one of Montana’s major cities.

The study showed that lack of funding is the single most critical reason limiting legal services to low- and moderate-income Montanans. Montana is one of few states with no direct state appropriation for civil legal aid in general and federal funding has undergone dramatic cuts in recent years. Additionally, as the study noted, the legal and judicial systems are complicated and many Montanans are simply unable to navigate them alone. The study stressed that full representation by an attorney—both for brief and extended services—is the largest over-riding gap in services in Montana.

The report outlines six broad goals which could provide a roadmap to narrow Montana’s justice gap. These include increasing availability and types of free legal assistance, increasing the legal areas in which assistance is available, increasing the amount of in-person services, increasing awareness of services by eligible individuals and services providers, and increasing the collaboration between the legal providers and other service providers. The final goal is to give particular attention to the gaps and barriers of those who feel the effects of legal problems and lack of services most intensely.

In addition to identifying gaps and barriers and outlining goals for closing Montana’s justice gap, the report offers nearly 50 strategies to help accomplish those goals. Though some are low to no cost, the

fact is that most strategies will require additional funds and additional staff. The strategies offered cover a wide range of activities, from promoting and supporting collaborations between legal and other service providers to creating more opportunities for pro bono attorneys to participate through individual advice and helping self-represented litigants complete court forms in a clinic setting.

The most effective, overarching strategy identified is to increase the number of staff attorneys in Montana who provide brief and extended representation for low- and moderate-income Montanans. Collaboration with underserved and vulnerable population service providers, development of a legal incubator program to provide reduced fee legal assistance and provide training for new law graduates, and increased use of technology to improve access and communication were offered as additional strategies.