

## **Biennial Report of the Montana Access to Justice Commission No. AF 11-0765**

In accordance with the Montana Supreme Court's Order of May 22, 2012, the Access to Justice Commission (Commission) submits this third biennial report to the Court. Since the Commission's last report, submitted in March 2017, the Commission and its committees have adopted a new strategic plan; begun work on a more in-depth resource inventory and planning project; helped launch a court-connected early mediation program; pursued legislation to secure state funding for access to justice programs; and finalized automated, standardized fee waiver and family law forms, among many other activities. Much of the Commission's work continues to be carried out through the four standing committees created under its initial strategic plan: the Standing Committee on Self-Represented Litigants, the Committee on Law School Partnerships, the Committee on Outreach and Communication, and the Committee on Policy and Resources. Additionally, the Commission has created ad hoc committees for strategic planning and a court-connected early mediation project, as well as several working groups for specific topics. This report outlines the work being done by each Committee and the Commission as a whole as directed by the Court's Order.

### **Assess the legal needs of low- and moderate-income Montanans, evaluate the extent to which those needs are going unmet, and coordinate efforts to better meet those needs.**

In 2017, the Commission reconvened its Strategic Planning Committee to begin the process of reviewing the Commission's existing mission and goals and developing a set of recommended strategies and actions for the Commission and its partners to pursue over the coming years. As the Commission was nearing adoption of its new strategic plan, it applied for and was offered a Justice For All project strategic planning grant from the National Center for State Courts. Accordingly, the Commission finalized the short-term strategic plan it had been developing, and then transitioned its existing strategic planning work into the new, more robust Justice For All grant project.

The Strategic Planning Committee surveyed the Commission's views of its strengths, weaknesses, opportunities, and threats; reviewed the Commission's first strategic plan adopted in 2013 and the Commission's work accomplished to date; considered the

recommendations from the Commission's public forum series report; consulted other states' strategic plans and the National Conference of State Courts' Justice For All strategic planning guidelines; and drafted a new strategic plan for the Commission. Following this year-long strategic planning process, the Commission adopted a revised [two-year Strategic Plan](#) in December 2018. The new plan provides a road map for accomplishing a renewed set of Commission goals over the next two years.

The new strategic plan contains four main components: 1) an organizational statement of purpose reflecting on the Commission's core purpose and approach to its work; 2) overarching objective statements capturing the ultimate outcome the Commission hopes to achieve in each of its four focus areas of increasing access to legal services and information, coordinating efforts among various entities, increasing support for access to justice efforts, and securing adequate funding and other resources; 3) a list of strategies and activities designed to accomplish the goals expressed in the focus area objective statements, with special emphasis on several priority items of particular importance in the near term; and 4) designated entities to lead each of the strategies and activities.

Since being awarded the Justice For All grant, the Commission's Strategic Planning Committee engaged a consultant to facilitate the project, reviewed the existing resource inventory research, conducted additional stakeholder and community surveys, analyzed results, and evaluated Montana's progress in each of the Justice For All key components. The Commission is now nearing completion of the inventory assessment phase of the grant project and will soon begin strategic action planning and implementation of the resulting plan. The full project is expected to be completed in May 2020.

**Assess the ability of all court users to access the courts, and make recommendations to improve rules, statutes, and judicial processes to assure accessibility to all.**

The Commission's Standing Committee on Self-Represented Litigants (SCSRL) continued significant work to revise and automate standardized, plain-language forms and instructions for use by self-represented litigants and pro bono attorneys. The Committee completed a pilot project of updated family law forms, collecting valuable feedback that will be used as the committee continues towards finalizing and promoting statewide, automated, standardized forms. The Committee also secured approval for a standardized fee waiver form, concluding more than a year of work to address

inconsistencies in fee waiver forms used among the courts and that had resulted in disparities among litigants.

Commission members also worked diligently to develop a mechanism for developing, reviewing, and updating additional forms and instructions in the future. Aided by one of the Montana Supreme Court's law clerks and a Justice for Montanans AmeriCorps member, the committee is developing an inventory of all the automated pro se forms available and comparing them to the forms used in various judicial districts. This review will help identify differences between the statewide forms and other forms being used in specific districts and foster more support for broader use of the statewide standardized forms. The forms project is a top priority for the Court Help Program, and its staff have been instrumental in moving this project forward.

Additionally, members of the committee launched a new project to create videos that familiarize self-represented litigants with the legal process and the Court's Self Help Centers. The videos are available on the Court's website and [YouTube channel](#).

In September 2017, the Commission held a joint meeting with the State Bar of Montana's Justice Initiatives Committee (JIC), during which the two entities focused on the specific challenges survivors of domestic and sexual violence face within the civil legal system. Members of the Commission and JIC reviewed research regarding procedural fairness principles in the context of domestic violence survivors and discussed opportunities for furthering various domestic violence initiatives. The Commission and JIC agreed to convene a domestic violence working group to better coordinate efforts. The working group has met several times since the joint meeting and began its work by creating an inventory and map of domestic violence legal assistance resources across the state.

An SCSRL working group also continued its work to develop and implement an order of protection pilot project. Commission members conducted a small pilot program for a checklist to assist litigants with collecting evidence and preparing for a permanent order of protection hearing. Copies of the checklist were distributed to parties, resulting in a marked improvement in hearing participation, better understanding of the process, and more instances of participants gathering appropriate evidence for the hearing. Commission members have also worked on ways to better coordinate order of protection hearings with the resolution of other civil legal needs, such as creating or modifying parenting plans.

**Provide long-range, integrated planning among legal assistance providers and other interested entities and people in Montana, and continue to facilitate networking and communication among them.**

The Commission continues to lead the state's long-range, integrated planning efforts for access to justice issues, most notably through its strategic planning, uniform forms development, and Justice For All projects discussed above, and through its work in the Legislature, discussed more below. The Commission also remains a forum for information-sharing and networking among legal assistance providers and other interested entities. The Commission and its committees continue to involve individuals representing a variety of access to justice stakeholders, including legal assistance providers and other interested entities. In particular, the Commission's strategic planning and Justice For All projects have included participants and solicited input from a broad section of community members. The Commission also maintained its strong relationship with the State Bar of Montana's Justice Initiatives Committee, holding joint meetings in September 2017 and December 2018, and ensuring JIC representation on Commission committees. Communication and knowledge-sharing is further bolstered by Commission members and others frequently reporting back to the Commission regarding state and national conferences and sharing new resources and information regarding access to justice topics, such as limited scope representation and using technology to expand access to legal services.

**Foster the development of a statewide integrated civil legal services delivery system, design and implement new programs to expand opportunities for access to justice, and work toward the most efficient use and delivery of resources relating to civil access to justice.**

Over the biennium, the Commission's Committee on Law School Partnerships (CLSP) collaborated with Montana Legal Services Association, Alexander Blewett III School of Law, Montana Justice Foundation, and the State Bar of Montana in an Incubator Working Group to develop the Rural Incubator for Lawyers Program (RIPL). With the Commission's support, the program successfully secured initial funding, hired an attorney coordinator, and welcomed the program's first two participants, known as RIPL Fellows, in March 2019. RIPL provides lawyer participants with legal skills training, mentor guidance, and business development resources to launch and enhance sustainable, rural law practices that include

low- and moderate-income legal services. RIPL Fellows also provide hours of pro bono services to Montana Legal Services Association clients during the program.

CLSP also continued to work with the Alexander Blewett III School of Law and Montana Legal Services Association to promote pro bono initiatives through the law school. During the biennium, CLSP developed a Pro Bono Coordinator Project. Initially, through an agreement between Montana Legal Services Association and Blewett School of Law, and with funding from the Family Law Section of the State Bar of Montana, a Justice for Montanans AmeriCorps member began developing and coordinating law student pro bono activities. The law school's faculty then institutionalized these and other efforts by approving a new pro bono program at the law school that offers incentives, recognition, and support for students to engage in pro bono work. The law school now employs a pro bono coordinator who works to connect law students and faculty with pro bono opportunities, among other projects.

The Commission continued to provide guidance and support for a court-connected early mediation program initiated by Justice Laurie McKinnon and Supreme Court Pro Bono Coordinator Patty Fain and developed under their leadership by a dedicated working group of lawyers, judges, mediators, and law school faculty. The purpose of the program, known as E-RAMP (Early Resolution and Mediation Program), is to provide litigants in family law disputes involving children a path to mediation for self-determined, early resolution; to facilitate early District Court case management; to produce greater likelihood of compliance with agreements; and to provide pro bono opportunities to volunteer attorneys and mediators. The E-RAMP pilot program is limited to financially eligible cases involving two self-represented litigants involved in district court domestic relations cases. With the Commission's support and feedback over the last two years, the ad hoc Mediation Project Committee developed an intake form and other materials, created a training program, trained over 30 mediators, and launched the program in early September 2018. The 11<sup>th</sup> Judicial District is serving as the pilot site for the program, with all of the judges in the district agreeing to participate in the pilot. Intake and scheduling is handled through an online platform, which the court may access through its case management system, furthering the automated design of the program.

**Work toward securing and maintaining adequate funding for civil access to justice, and coordinate statewide efforts to do so.**

The Commission continues to focus on Montana’s lack of legal and judicial resources to meet the civil legal needs of our citizens and to manage the growing burden on the court system. Recognizing that an effective continuum of legal services requires adequate and sustainable funding, and after the 2017 Legislature’s defeat of the Commission’s initial funding proposal, the Commission redoubled its efforts to examine ways to work toward an effective continuum of legal services. The Commission again concluded that state funding in some form will be critical to ensure a sustainable civil justice system.

With the knowledge gained from the 2017 legislative session, the Commission worked to address questions and concerns by developing a revised legislative proposal for the 2019 session. Similar to its initial proposal, the Commission proposed a bill to generate new revenue by raising certain civil filing fees in district court and appropriating the new revenue to the Office of Court Administrator for grants to legal aid organizations. This year, however, the Commission’s proposal included court-connected mediation programs in the list of eligible recipients and added a specific list of priorities and qualifications for available funds. Once again, community support for the bill was overwhelming and broad-based. Despite this broad support and a strong bipartisan coalition of co-sponsors for the bill, however, the bill was defeated in the House Judiciary Committee.

The Commission plans to revisit its ideas for state funding over the coming biennium and to work with supporters, legislators, and interested organizations to develop new ideas for a more successful effort.

Additionally, the Commission supported successful funding requests for Commission-supported projects, including the Justice For All grant and a grant to support the launch of the Rural Incubator Program for Lawyers, and recognized the Family Law Section of the State Bar of Montana for its support of the law school pro bono program.

**Serve as the advisory council for the Montana Legal Services Association VISTA project.**

MLSA’s AmeriCorps VISTA project ended in 2014. Still, the Commission continues to play a vital role in AmeriCorps in Montana by serving as an advisor to the Justice for Montanans AmeriCorps Project (JFM). JFM is a partnership between MLSA, the Supreme

Court Administrator's Office, the Montana Attorney General's Office of Consumer Protection and Victim Services, Child and Family Ombudsman program, DPHHS Legal Services Developer Program, and the Alexander Blewett III School of Law. Through this project, 20 AmeriCorps service members provide assistance to low- and moderate-income Montanans seeking assistance with their civil legal problems. Their work includes coordinating community education campaigns, providing access to services, assisting people with completing pro se documents, and making referrals to additional resources. This project has the dual benefit of training our next generation of community leaders on access to justice, while at the same time providing information and referrals to people in need. The JFM project supports the work of the Court Help Program by providing assistance to Self Help Centers across the state; the Commission receives and reviews Court Help Program updates regularly.

**Conduct regular meetings to achieve the ATJC's purposes.**

The Commission met quarterly during 2017 and 2018, and continues to do so. Minutes and materials of Commission meetings, all of which are open to the public, are posted on the Commission's website, <https://courts.mt.gov/courts/supreme/boards/a2j>.

**Establish the former Self-Represented Litigants Commission as a permanent ATJC committee to continue the Self-Represented Litigants Commission's mission, including forms development for self-represented litigants.**

The SCSRL continues to be a strong and active Commission committee. In addition to its work on revising and promoting standardized forms described above, the SCSRL continues to prepare resources and provide training for clerks and the judiciary regarding the forms and other issues related to pro se litigants.

**Conclusion**

The Commission again thanks the Court for its vision in creating a Commission with exclusive focus on improving the way in which Montana's court system responds to and addresses the legal needs of all Montanans. The Commission expresses special thanks to the Court and the Office of Court Administrator for making access to the civil justice system a priority of both the Court Help and Law Library staff. Many people have volunteered their time in the Commission's efforts to date, and the Commission is grateful for their

work and dedication. Finally, the Commission is grateful for staff support graciously provided by the Montana Justice Foundation. The Foundation has been instrumental in moving the Commission's work forward.

Over the past two years the Commission has made considerable progress in assessing the state's justice system and promoting robust, statewide, integrated access to that system. The Commission respectfully submits this summary of its findings, accomplishments, and plans for working to assure access to justice for all Montanans.

Dated this 14<sup>th</sup> day of June, 2019.

For the Commission,

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Justice Beth Baker, Chair

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