

MONTANA ACCESS TO JUSTICE COMMISSION

STRATEGIC PLANNING REPORT

December 3, 2013

MONTANA ACCESS TO JUSTICE COMMISSION STRATEGIC PLANNING REPORT¹

This Report is based on the discussion of September 18, 2013, during which Members of the Montana Access to Justice Commission discussed their individual expectations and hopes for the ATJ Commission as well as their understanding of the duties enumerated in the May 22, 2012 Supreme Court Order that created the Commission. The initial report on the September 18, meeting, in turn was discussed in a meeting of the ATJ Commission held on November 25, 2013.

This Report is organized into three parts: 1) highlights of the Commission's discussion of September 18, 2013, amended to reflect the meeting of November 25, 2013; 2) a statement of objectives for the ATJ Commission, drawn from the September 18 discussion and adopted in the November meeting; and 3) a description of possible strategies to accomplish each of the proposed objectives, derived from research into the current and past efforts of other ATJ Commissions and Boards across the country.

In addition, the Report includes an attached Table describing pertinent activities and strategies of the more active ATJ Commissions in other states. The strategies proposed in Section 2 of this Report have been suggested because they seem most consistent with the principle concerns of Montana's ATJ Commission, its resources, current activities and the needs of the justice system in the State. The additional Table is offered, however, because one or more of the strategies and activities in it may strike some Commission Members as holding promise for Montana, or may provoke consideration of a completely fresh approach, not tried before in any state.

HIGHLIGHTS OF THE SEPTEMBER 18 DISCUSSION

Overall. One theme which emerged from the discussion and was woven throughout this was a belief that the ATJ Commission should exercise a forward-looking, active role to improve the capacity of the justice system in Montana to meet the needs of its citizens, particularly those who are low income or disadvantaged. The ATJ Commission was described as an *"agent for change, not just a think tank."* The commitment to a proactive role was reflected in the desire expressed in the discussion that the Strategic Plan be an "attack plan" or a "blueprint" for accomplishing a *"big, audacious goal"* that responds to the "crisis in our state in terms of justice."

At the same time, the ATJC was seen in a coordinating and facilitating role, bringing the right people to the table to be engaged in analyzing needs and, more importantly, implementing strategies to meet those needs. One Commission Member stated: "We

¹ This report was prepared by John A. Tull of John A. Tull & Associates

know the needs of Montanans, but we need to figure out who the key players are and who can help."

Broadly speaking, the focus for the Commission fell into four areas each of which relates to one or more of the specific duties assigned by the Court in its Order.² It was apparent in the discussion that the substantive responsibilities laid out in the Court Order are interconnected as are the underlying themes that emerged from the discussion. For example, the issues identified in the Gaps and Needs Study will implicate the strategies undertaken to address access issues, which in turn will impact on delivery systems planning. All are connected to potential resource development strategies.

Access. There was robust discussion of issues associated with access to the courts and the capacity of Montanans to get legal help to resolve their problems. The duty charged by the Supreme Court is for the ATJ Commission to *"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 challenges associated with "access" were discussed from a variety of perspectives well beyond the simple question of whether people who need to are able to "get in the courthouse door." The Commission discussed whether there is adequate support or resources for persons who do get to court to present their case so that it can be heard and resolved appropriately. That question involves whether a lawyer is available to represent the individual or there are adequate resources to support self-represented litigants. It also involves whether the courts have sufficient resources and are configured to handle the volume, particularly of self-represented litigants.

This analysis led to the observation that the solution to the access problem will necessarily involve reforms in the justice system. One aspect that was identified is to increase the capacity for individuals in need to resolve their problems without recourse to the courts. Another is to "redefine" the role of self-help within and outside of courts. A third area identified as appropriate for "redefining" was pro bono.³

To build a case for reform in the civil justice system, there needs to be a showing of the inefficiencies and the high cost both to the courts and the society when Montanans who cannot afford a lawyer do not have access to means to solve their problems.

² The first duty identified by the Supreme Court, which is to: *"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,"* is being addressed in a separate "Gaps and Needs Study." It was, therefore, not discussed at length in the September 18 meeting.

³ In the strategies identified below, activities associated with pro bono are presented in the section on resource development since pro bono lawyers represent an additional resource to support the legal aid system,.

Coordination and facilitation of networking. A second broad theme in the discussion related to the potential capacity of the Commission to coordinate the many activities underway or planned in Montana to enhance access to the justice system and to increase resources available to assist those in need. The Supreme Court's Order states two broad duties that were implicated by this discussion:

- *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;*
- *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;*

It was observed that a great deal of informal planning goes on in Montana related to the operation of the delivery system and a formal planning process is not called for. Rather the ATJ Commission's efforts should be to foster greater communication, networking and coordination. As one Commissioner put it: *"There are a lot of trains running at once."* Integration of those efforts involves *"getting all the players in the room and on the same page."* It was noted that because Montana is a small state in terms of population, it is often enough simply to communicate about what each organization is doing, so they can adjust to each other. *"It's how we do it in Montana."* It was observed, however, that what has been missing is an organization such as the ATJ Commission with the responsibility or authority, when necessary, to make a decision about what needs to happen.

Education. A third area of focus in the discussion was educating the judiciary, the legislature and the general public regarding the importance of legal aid to the efficient operation of government, particularly to the Judiciary and to the economic health of the State. The case needs to be made in empirical terms of the cost to the state of having the courts flooded with self-represented litigants without adequate capacity to handle them. The empirical case also needs to be made regarding the economic benefits that accrue to the State as well as to local communities as a direct and indirect result of the investment in legal aid services.

This was discussed in the context of an overall goal of *"elevating awareness of and commitment to access to justice throughout the state."* This potential focus for the ATJ Commission relates to nearly all of the duties assigned by the Supreme Court. It is particularly germane to the access challenge and described above as well as to the charge by the Court for the Commission to: *"Work toward securing and maintaining adequate funding for civil access to justice, and coordinate statewide efforts to do so."*

Resource development. The duty of the ATJC to address the need for adequate funding, spelled out in the Supreme Court's order, stands on its own as an area of focus for the ATJ Commission. It was noted that Montana is one of only two states that do not provide support for legal aid services out of general funding. The case for funding needs to

be grounded in a showing not only of need, but of its capacity to make the entire system more efficient and more fair.

PROPOSED OBJECTIVES

The discussion on September 18 did not explicitly articulate specific objectives for the ATJ Commission's work. The following were agreed to by the ATJ Commission at its November 25 meeting to provide both a framework for the strategies that follow and a basis for the ATJC to assess the success of its efforts.

Access

The Montana Access to Justice Commission will engage in strategies and activities on its own and in concert with others, when appropriate, to:

1. Address the challenge of increasing numbers of self-represented litigants to the end that they can obtain expeditious, fair and appropriate resolution of their legal claims and defenses.
2. Create meaningful alternatives for persons to resolve disputes and solve legal problems without recourse to the Courts; and
3. Improve access to the Courts by overcoming impediments to access caused by geographic, economic, cultural or linguistic isolation or by mental or physical disability.

Coordination and facilitation of networking

The Montana Access to Justice Commission will engage in strategies on its own and in concert with others, when appropriate, to support a high level of coordination and networking among legal assistance providers, the law school and other pertinent entities in order to foster a statewide, integrated civil legal services delivery system that is effective and efficient in responding to the needs of low-income communities and individuals.

Education

The Montana Access to Justice Commission will engage in strategies on its own and in concert with others, as appropriate, to educate the judiciary, the legislature, law students and lawyers as well as the general public regarding the importance of access to justice for all communities, including Montana's Native American communities, and the value of a strong, well-funded legal services delivery system, particularly as it affects the efficient operation of the Courts and the economic health of Montana.

Resource development

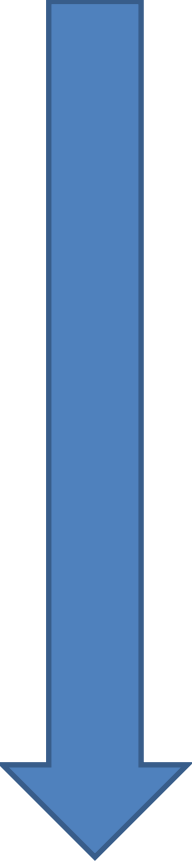
The Montana Access to Justice Commission will engage in strategies on its own and in concert with others, as appropriate, designed to secure adequate funding for civil access to justice, including but not limited to seeking support from the State government.

POTENTIAL STRATEGIES

Broad strategic approaches to ATJ work

At the outset of the discussion of potential strategies, it may be helpful to note the range that exists in the types of strategies in which Access to Justice Commissions have engaged across the country. They range from the relatively passive strategy of conducting and publishing studies to the more active engagement in direct advocacy and the hands-on implementation of programs. There is also a range in the degree to which ATJ Commissions have permanent staff assigned to them to carry out their activities.

A review of the major initiatives undertaken by ATJ Commissions and Boards in the last decade (in some cases, two decades) revealed the following spectrum of approaches:

Types of strategies typically employed by ATJ commissions	
	➤ Studies designed to educate the public and decision-makers regarding policies and practices that affect access to justice
	➤ Studies and recommendations for legislative or administrative action or court rules and practices
	➤ Monitoring and review of statewide developments that affect access to justice
	➤ Serving as a clearinghouse for national and statewide information of use to the providers and the courts
	➤ Planning for the operation of the legal aid delivery system
	➤ Adoption of standards and norms for the operation of the civil justice system or for legal practice within it
	➤ Production of educational materials – articles/manuals/DVDs/TV shows/podcasts/
	➤ Collaboration with other entities , such as courts and legal aid providers in creating programs and undertaking initiatives
	➤ Training and education
	➤ Sponsoring/participating in forums that highlight an aspect of the access to justice system or bring key parties together for purposes of networking and planning
	➤ Drafting and advocating proposed rules or legislation
	➤ Direct advocacy by individual members, particularly for funding
MORE PASSIVE	
	MORE ACTIVE

Potential strategic approaches for the Montana Access to Justice Commission

The following presents an array of potential strategies, some of which are already underway in Montana and others of which would be brand-new. There are more strategies suggested here than will be practical to undertake. Each requires staffing, voluntary or paid, and sometimes other resources to accomplish. Some are very resource intensive, while others are not. Consideration of which strategies should the ATJ Commission commit to, however, will necessarily involve a discussion of where the resources will come from to accomplish them – from a reallocation of current resources or new resources from within or outside the State.

In the November 25 meeting, it was agreed that four Standing Committees of the Commission would be assigned responsibility to review the following strategies. The four Committees are: 1) Standing Committee on Self-Represented Litigants, 2) Standing Committee on Law School Partnerships, 3) Standing Committee on Communication and Outreach, and 4) Standing Committee on Policy and Resources. The Standing Committee to which review of each of the following potential strategies is assigned is indicated below.

In the meeting, it was decided that each Standing Committee would have the following responsibilities in reviewing the proposed strategies:

1. *To review each strategy* and make an initial judgment and recommendation for the ATJ Commission regarding whether it should be pursued (The fact that a Committee reviews and recommends a strategy, does not necessarily mean that it would be responsible for carrying out that strategy should the ATJ Commission decide that it is appropriate to pursue);
2. *To prioritize among the strategies* it is reviewing, without regard to whether the Standing Committee reviewing it should or would be responsible for its implementation;
3. *To make a recommendation regarding what committee should be responsible:* the Standing Committee reviewing it, another Standing Committee, or a Special Committee;
4. *To estimate the resources required to carry out the strategy* and to consider where those resources might come from; members of the ATJ Commission – an organization participating on the ATJ Commission; an organization associated with the civil justice system, though not on the Commission; funds raised by the Commission or one of its member agencies; or some other source; and
5. *To consider a potential timetable* for completing the strategy, if a decision is made to pursue it and that the resources are available.

I. Potential Access strategies

1. Self-represented litigants

Strategy One – Standing Committee on Self-Represented Litigants

Through the Standing Committee on Self-Represented Litigants (SCSRL) prepare a study and recommendations regarding self-represented litigants that includes:

1. Analysis of already completed data gathering (judges and court personnel) and planned data gathering (practitioners and self-represented litigants) by the SCSRL;
2. Analysis of the causes for a significant increase in the number of self-represented litigants;
3. Analysis of the cost to the court system of unsupported self-represented litigants, in terms of lost time and other inefficiencies;
4. Analysis of the cost to the courts and the state when self-represented litigants do not obtain results to which they are entitled and orders they need, such as divorce and Orders of Protection;
5. Recommendations for changes in court rules and operations to accommodate self-represented litigants, including involvement of lawyers providing limited task representation, when appropriate; and
6. The value and feasibility of various means of supporting self-represented litigants, including:
 - A toll-free helpline;
 - Web-based assistance, including videos;
 - Brochures and other publications; and
 - Other appropriate means identified by the Committee.

Type of Strategy: Study and recommendations that may lead to further action

Potential Timetable: Complete study and publish report November 2014 with follow-up and further action in 2015 and 2016.

ATJCs Using the Strategy: New Mexico

<http://www.nmbar.org/Attorneys/ATJ/2007ReportoftheSelfRepresentedWorkingGroup.pdf> and

<http://www.nmbar.org/Attorneys/ATJ/2007SupCtOrder.pdf>

Washington State

<http://www.wsba.org/Legal-Community/Committees-Boards-and-Other-Groups/Access-to-Justice-Board/Access-to-Justice-Board-Key-Documents#Communications>

Alabama

<http://alabamajti.org/wp-content/uploads/2013/08/Alabama-Final-Report-SRL-Services.pdf>

Strategy Two – Standing Committee on Self-Represented Litigants

Formalize the process and create a mechanism for ongoing development, review and updating of forms for use by self-represented litigants. Consider means to foster their greater acceptance by the judiciary.

Type of Strategy: Recommendations and advocacy for adoption

Potential Timetable: 2014 and ongoing in 2015 and 2016

ATJCs Using the Strategy: Underway in Montana

Strategy Three – Standing Committee on Self-Represented Litigants

Continue support for the Supreme Court's Court Held Program, monitor its operation and, if necessary, recommend changes for its improvement or expansion.

Type of Strategy: Monitoring and review

ATJCs Using the Strategy: Underway in Montana

Other potential strategies – Standing Committee on Self-Represented Litigants

- A. Study potential additional changes in Code of Judicial Conduct and ethical rules to accommodate self-represented litigants and, if appropriate, advocate for change.

Type of Strategy: Study and possible Advocacy for Rule Change

Potential Timetable: Complete in 2014

ATJs using the strategy: Massachusetts

<http://www.massacesstojustice.org/resources/Strats%20O%20G%20for%202013.June%208.doc>

Maryland

<http://www.mdcourts.gov/mdatic/pdfs/annualreport2011.pdf>

New Mexico

<http://www.nmbar.org/Attorneys/ATJ/2007SupCtOrder.pdf>

Resolution Adopted by the Conference of Chief Justices as proposed by the Access, Fairness and Public Trust Committee at the 2012 Annual Meeting (July 25, 2012)

http://www.americanbar.org/content/dam/aba/events/legal_aid_indigent_defendants/2013/05/nat_1_mtg_of_accessstojusticecmmnchairs/ls_sclaid_atj_resolutions.auth_checkdam.pdf

- B. Study the value of the creation of a Division of Self-Represented Litigants Services within the Judicial Branch and take appropriate action

Type of Strategy: Study and recommendations

Potential Timetable: Complete study and make recommendations, if appropriate, in 2014 for action in 2015

ATJCs Using the Strategy: Maryland

<http://www.mdcourts.gov/mdatic/pdfs/annualreport2011.pdf>

- C. Update materials and renew training of court clerks regarding how to distinguish legal information from legal advice. Consider expanding training to include other pertinent court personnel.

Type of Strategy: Training and education

Potential Timetable: 2014

ATJCs Using the Strategy: Maryland
<http://www.mdcourts.gov/mdatjc/pdfs/annualreport2011.pdf>

- D. Host a retreat for Court leadership teams, including administrative judges, chief clerks and court administrators from all courts. Introduce Report of the ATJ Commission/Standing Committee on Self-Represented Litigants.

Type of Strategy: Sponsoring forums

Potential Timetable: Complete in 2015, based on findings and recommendations in Self-Represented Litigants Study, completed in Late 2014

ATJCs Using the Strategy: Maryland
<http://www.mdcourts.gov/mdatjc/pdfs/annualreport2011.pdf>

- E. Conduct an inventory of resources, materials and support currently available to self-represented individuals throughout Montana and make recommendations, if appropriate, for increased collaboration and mutual support.

Type of Strategy: Study and recommendations

Potential Timetable: 2014

ATJCs Using the Strategy: Being considered by the Standing Committee on Self-Represented Litigants

- F. Update Self-Represented Litigants Handbook for judges and consider feasibility of making it available online

Type of Strategy: Production of educational materials

Potential Timetable: 2014

ATJCs Using the Strategy: Handbook already developed in Montana
Tennessee
http://www.tncourts.gov/sites/default/files/docs/final_atjc_2012_strategic_plan.pdf

2. Reform to reduce reliance on judicial decision-making to resolve problems

Strategy One – Standing Committee on Policy and Resources

In coordination with the Mediation Subcommittee of the Justice Initiatives Committee, study the viability and feasibility of increasing resources available for mediation and other forms of alternate dispute resolution, including the development of pro bono and reduced rate services

Type of Strategy: Study and recommendations

Potential Timetable: Complete Study and Report in late 2014 with follow-up, as appropriate, in 2015 and 2016

ATJCs Using the Strategy: Tennessee,
http://www.tncourts.gov/sites/default/files/docs/final_atjc_2012_strategic_plan.pdf
Hawai'i
<http://www.hawaiijustice.org/wp-content/uploads/2011/05/Appendix-A-Legal-Service-Providers-and-Dispute-Resolution-Centers.pdf>

Strategy Two – Standing Committee on Policy and Resources

Study the potentiality of reforming and streamlining laws, taking into account any actions or recommendations by the Legislature's Law and Justice Interim Committee, with particular attention to those areas of the law that give rise to a high volume of self-represented litigants (family law, domestic violence, landlord-tenant) to reduce need for and reliance on judicial intervention.

Type of Strategy: Study and recommendations

Potential Timetable: Complete Study and Report in late 2014 with follow-up, as appropriate, in 2015 and 2016

ATJCs Using the Strategy: Hawaii
<http://www.hawaiijustice.org/wp-content/uploads/2011/05/annual-report-for-2011.pdf>

3. Overcoming impediments to access caused by geographic, economic, cultural or linguistic isolation or by mental or physical disability

Strategy – Standing Committee on Communications and Outreach

Review the Gaps and Needs Study upon its completion to identify populations, geographic areas and types of needs that are disproportionately underrepresented in their access to the courts and to needed legal services. Identify and recommend responsive strategies for adoption by legal aid providers, the courts and other appropriate entities. Identify potential funding opportunities to respond to newly identified gaps and needs and take appropriate action.

Type of Strategy: Study, recommendations and possible direct action

Potential Timetable: Complete Study and Report in late 2014 with follow-up, as appropriate, in 2015 and 2016

ATJCs Using the Strategy: Minnesota
http://www.mncourts.gov/Documents/0/Public/administration/Final_MN-CABS_Study_September_2011.pdf

II. POTENTIAL STRATEGIES FOR THE COORDINATION AND FACILITATION OF NETWORKING TO SUPPORT LONG-TERM PLANNING AND INTEGRATION OF THE LEGAL SERVICES DELIVERY SYSTEM

Strategy One – Standing Committee on Communications and Outreach

Review the Gaps and Needs Study upon its completion to identify unmet legal needs and convene a planning group including legal aid providers, the University of Montana School of Law, private attorneys, social service agencies, tribal governments or organizations, and other pertinent entities to consider responsive strategies, including seeking funding where possible to expand resources available to respond.

Type of Strategy: Planning for the operation delivery system

Potential Timetable: Complete Study and Report in late 2014 with follow-up, as appropriate, in 2015 and 2016

ATJCs Using the Strategy: Hawai'i
<http://www.hawaiijustice.org/wp-content/uploads/2011/05/annual-report-for-2011.pdf>
Massachusetts
<http://www.massaccessjustice.org/resources/Strats%20O%20G%20for%202013.June%208.doc>
New Mexico
<http://www.nmbar.org/Attorneys/ATJ/2006TheNewMexico10StepPlanforImprovingAccessToJustice.pdf>
<http://www.nmbar.org/Attorneys/2013StatePlan.pdf>
Washington
<http://www.wsba.org/Legal-Community/Committees-Boards-and-Other-Groups/Access-to-Justice-Board/Access-to-Justice-Board-Key-Documents#Communications> (link to all plans)
http://www.wsba.org/Legal-Community/Committees-Boards-and-Other-Groups/Access-to-Justice-Board/~/_media/Files/Legal%20Community/Committees_Boards_Panels/ATJ%20Board/Washington%20State%20Plan%20for%20Integrated%20Pro%20Se%20Services%20-%20202010.ashx (2010 Plan)

Strategy Two – Standing Committee on Communications and Outreach

Convene a statewide Access to Justice Forum to bring key decision-makers together, including members of the legislature and judiciary to discuss access to justice and the needs of the legal services delivery system. The Forum could be structured to include a broad spectrum of participants, including individuals and organizations that provide support and services to low-income and Native American communities, but are not always at the table with the access to justice community.

(The strategy also would serve the “Education Objective.” Such a forum might be an appropriate place to introduce a study of the importance of a strong legal aid to the

efficient operation of the Courts⁴ and the economic benefits to the State of Montana.⁵)

Type of Strategy: Sponsor and participate in forum

Potential Timetable: 2015 to present findings of various studies undertaken and completed in 2014

ATJCs Using the Strategy: California
<http://board.calbar.ca.gov/docs/agendaItem/Public/agendaitem1000009373.pdf>
Washington
<http://www.wsba.org/Legal-Community/Committees-Boards-and-Other-Groups/Access-to-Justice-Board/Access-to-Justice-Board-Key-Documents#Communications> (link to all conference agendas)
http://www.wsba.org/Legal-Community/Committees-Boards-and-Other-Groups/Access-to-Justice-Board/~media/Files/Legal%20Community/Committees_Boards_Panels/ATJ%20Board/ATJ%20BLC%20Materials/2012/ProgramOur%20New%20Economic%20Reality.ashx (link to 2012 conference agenda)

Strategy Three – Standing Committee on Law School Partnerships

Work with the University of Montana School of Law, the Student Bar Association, the State Bar of Montana, the Supreme Court’s Pro Bono Coordinator, and legal services providers to develop a *signature program* to pair Montana attorneys with law students to work on Rule 6.1 pro bono matters that are eligible to be reported as pro bono hours by both the attorney and the student.

Type of Strategy: Collaboration with others to create a program

Potential Timetable: The ATJC accepted a recommendation on 11/25/13 that the program should be developed and in place before any student or bar applicants reporting requirements begins (no later than the July 2017 bar exam)

ATJCs Using the Strategy: In accordance with the Report in Recommendations adopted by the Montana ATJC Commission 11/25/13

See also:

Massachusetts

<http://www.massacesstojustice.org/resources/Strats%20O%20G%20for%202013.June%208.doc>

Hawai`i

<http://www.hawaiijustice.org/wp-content/uploads/2011/05/annual-report-for-2011.pdf>

⁴ See Strategy at pp. 7 and 1313.

⁵ See Strategy at p.13.

III. POTENTIAL STRATEGIES TO EDUCATE THE LEGISLATURE, JUDICIARY, LAWYERS AND LAW STUDENTS AS WELL AS THE GENERAL PUBLIC REGARDING ACCESS TO JUSTICE ISSUES AND THE IMPORTANCE OF CIVIL LEGAL ASSISTANCE

Strategy One – Standing Committee on Communications and Outreach

Conduct a study and prepare a report showing the importance of civil legal assistance to the efficient operation of the Judiciary, particularly with regard to the inefficiencies engendered by self-represented Litigants.

Type of Strategy: Study and recommendations

Potential Timetable: Complete Study and Report in late 2014 with follow-up, as appropriate, in 2015 and 2016

ATJCs Using the Strategy: New York

http://www.nycourts.gov/ip/access-civil-legal-services/PDF/CLS-TaskForceREPORT_Nov-2012.pdf

New Mexico

<http://www.nmbar.org/Attorneys/ATJ/2007ReportoftheSelfRepresentedWorkingGroup.pdf>

Strategy Two – Standing Committee on Communications and Outreach

Conduct a study and prepare a report showing the impact of civil legal assistance on the economic health of the State of Montana. Rely on the methodologies used by other states to demonstrate the impact, gathering data from service providers to plug into formulas derived from those states.

Type of Strategy: Study and recommendations

Potential Timetable: Complete Study and Report in late 2014 with follow-up, as appropriate, in 2015 and 2016

ATJCs Using the Strategy: New York

http://www.nycourts.gov/ip/access-civil-legal-services/PDF/CLS-TaskForceREPORT_Nov-2012.pdf

Maryland

<http://www.mdcourts.gov/mdatjc/pdfs/annualreport2012.pdf>

New Hampshire

http://www.courts.state.nh.us/access/2013_report/Economic_Impact_Report.pdf

See also

http://www.nlada.org/DMS/Index/000000/000050/document_browse#topics

<http://www.publicwelfare.org/NaturalAllies.pdf>

Strategy Three – Standing Committee on Law School Partnerships

Work with the University of Montana School of Law, law students, legal services providers, and the State Bar of Montana to develop and implement an ongoing program to expand and support pro bono opportunities for students and to recommend to the

Commission any needed rules and procedures for consideration by the Court or by the State Bar of Montana.

Type of Strategy: Collaboration with others to create a program

Potential Timetable: 2014 and 2015

ATJCs Using the Strategy: In accordance with the Report in Recommendations adopted by the Montana ATJC Commission 11/25/13

See also:

Massachusetts

<http://www.massaccessjustice.org/resources/Strats%20O%20G%20for%202013.June%208.doc>

Hawai'i

<http://www.hawaiijustice.org/wp-content/uploads/2011/05/annual-report-for-2011.pdf>

Strategy Four – Standing Committee on Communications and Outreach

Sponsor a statewide conference or symposium on access to justice issues with a goal of bringing public attention to access to justice issues and networking among providers and other organizations with a potential to respond.⁶ The purpose of such a conference would be to educate participants about the issues and to encourage networking, although it could be combined with the following strategy the goal of which is one of fact-finding.

Type of Strategy: Sponsor forum

Potential Timetable: In 2015 and 2016, based on findings and recommendations of studies completed in 2014

ATJCs Using the Strategy: Arkansas

<http://www.arkansasjustice.org/accomplishments>

Hawai'i

<http://www.hawaiijustice.org/atjdownloads/appendix-A-2010-agenda-for-conference-as-of-6-21-10.pdf>

Maine

<http://mbf.org/sites/default/files/JAGReportExecutiveSummary12-17-07.pdf>

Strategy Five – Standing Committee on Communications and Outreach

Host Town Hall/hearings on access to justice issues, perhaps following up on the results of the Gaps and Needs Study. The purpose of the strategy would be to invite comment and input on the access to justice needs identified in the Gaps and Needs Study, as opposed to educating the audience regarding such issues. This could, however, be combined with an educative conference or symposium – described in the previous strategy.

Type of Strategy: Public forum

Potential Timetable: 2015 and 2016

⁶ See also Strategy Two regarding networking and communication on p. 11.

ATJCs Using the Strategy: Arkansas

<http://www.arkansasjustice.org/accomplishments>

Maryland

<http://www.mdcourts.gov/mdatjc/pdfs/annualreport2010.pdf>

California

<http://archive.constantcontact.com/fs053/1102650310904/archive/1110061570342.html>

<http://californiahearings.org/>

IV. POTENTIAL STRATEGIES FOR RESOURCE DEVELOPMENT

Strategy One – Standing Committee on Policy and Resources

Begin a direct campaign with the legislature for funding of civil legal assistance, after completion of a credible study that describes the role of such assistance in increasing the efficiency of the judiciary and its positive effect on Montana’s economy.⁷ Review the efforts of others in obtaining legislative funding to identify successful strategies and approaches.⁸

Type of Strategy: Direct advocacy for funding

Potential Timetable: In 2014, 2015 and 2016

ATJCs Using the Strategy: Arkansas

<http://www.arkansasjustice.org/accomplishments>

Hawai'i

<http://www.hawaiijustice.org/wp-content/uploads/2011/05/annual-report-for-2011.pdf>

Maine

<http://mbf.org/sites/default/files/JAGReport12-17-07.pdf>

Texas

<http://www.texasatj.org/files/file/052813EndofLegSessionATJ.pdf>

⁷ See Strategies on pp. 6 and 12.

⁸ This quote doesn't precisely belong, but it certainly inspires – and highlights the potential for successful fundraising for legal aid, even from legislatures that are historically conservative about such funding.

“Legal services make economic sense; the financial consequences of unresolved legal problems – domestic violence, deprived children, denied veterans, forsaken elderly, and on and on – are a far more burdensome expense than the cost of providing legal services to address them. But even more important than economics, basic legal services for the poor is essential to the integrity of the rule of law. That is why the Supreme Court of Texas – myself and all my colleagues unanimously – support legal services heart and soul. A legal system too expensive for those who need it is a failure. We do not intend to preside over such a system. This is not a partisan issue. It is not Republican or Democrat, conservative or liberal. This past session, Members of the Legislature, from the most liberal to the staunchest conservative, supported efforts to preserve legal services.”

Justice Nathan Hecht – Recently elevated by Governor Rick Perry to Chief Justice of the Texas Supreme Court. (The Texas Legislature appropriated \$13 million for legal aid in 2013, in keeping with a long tradition of strong financial support.)

Strategy Two – Standing Committee on Policy and Resources

Work with the Standing Committee on Self-Represented Litigants to obtain permanent funding for the Court Help Program.

Type of Strategy: Direct advocacy for funding

Potential Timetable: 2014 and 2015

ATJCs Using the Strategy: Immediate need in Montana

Strategy Three – Standing Committee on Policy and Resources

Work with the Montana Justice Foundation to study and recommend ways to increase *Cy Pres* awards (class-action residuals), including monitoring class actions in Montana or affecting Montana residents, amending rules governing class actions to encourage or require payment to the Montana Justice Foundation for distribution to legal aid providers.

Type of Strategy: Study and recommendations

Potential Timetable: Complete Study and Report in mid-2014 with follow-up, as appropriate, in 2014 and 2015

ATJCs Using the Strategy: Massachusetts
<http://www.massaccessstojustice.org/resources/Strats%20O%20G%20for%202013.June%208.doc>
New Mexico
<http://www.nmbar.org/Attorneys/2013StatePlan.pdf>
Maryland
<http://www.mdcourts.gov/mdatjc/pdfs/annualreport2012.pdf>
North Carolina
http://www.ncequalaccessstojustice.com/?page_id=26

Strategy Four – Standing Committee on Policy and Resources

Examine the potential for Montana adopting a Pro Hac Vice fee with the proceeds being dedicated to legal aid providers.

Type of Strategy: Study and recommendations

Potential Timetable: In 2014 and 2015

ATJCs Using the Strategy: Maryland
<http://www.mdcourts.gov/mdatjc/pdfs/annualreport2011.pdf>
Massachusetts
<http://www.massaccessstojustice.org/resources/Strats%20O%20G%20for%202013.June%208.doc>
New Mexico
<http://www.nmbar.org/Attorneys/2013StatePlan.pdf>

Strategy Five – Standing Committee on Policy and Resources

Monitor statewide fundraising in Montana to assure coordination

Type of Strategy: Monitoring and review

Potential Timetable: Ongoing

ATJCs Using the Strategy: Maine

<http://mbf.org/sites/default/files/JAGReportExecutiveSummary12-17-07.pdf>

Washington State

<http://www.wsba.org/Legal-Community/Committees-Boards-and-Other-Groups/Access-to-Justice-Board/Access-to-Justice-Board-Key-Documents#Funding>

Strategy Six – Standing Committee on Law School Partnerships

Support adoption of changes to Rule 6.1 of the Montana Rules of Professional Conduct to accommodate the recommendation that law students be expected to render at least 50 hours of pro bono law-related services during their legal education in prior to admission and be required to report on those services prior to admission to the State Bar of Montana.

Type of Strategy: Direct advocacy for a rule change

Potential Timetable: 2014

ATJCs Using the Strategy: Recommendation adopted by the Montana ATJ Commission 11/25/13

Strategy Seven – Standing Committee on Law School Partnerships

Coordinate with the Justice Initiatives Committee to support its strategies aimed at increasing participation by pro bono attorneys.

Type of Strategy: Collaboration with other entities in undertaking initiatives

Potential Timetable: Ongoing in 2014, 2015 and 2016

ATJCs Using the Strategy: Ongoing in Montana

Strategies in other states include:

Hosting a statewide pro-bono summit (North Carolina –

http://www.ncequalaccesstojustice.com/?page_id=26 and Tennessee –

http://www.tncourts.gov/sites/default/files/docs/final_atjc_2012_strategic_plan.pdf)

Focusing on law schools and law school students (Hawai'i –

<http://www.hawaiijustice.org/wp-content/uploads/2011/05/annual-report-for-2011.pdf>)

Creating a statewide website for pro bono referrals and campaign to recruit 1) government lawyers, 2) stay-at-home parents and 3) in-house counsel (Massachusetts –

<http://www.massaccesstojustice.org/resources/Strats%20O%20G%20for%202013.June%208.doc>)