

# The Connecticut General Assembly

## Task Force to Improve Access to Legal Counsel in Civil Matters

Co-Chairs:

William H. Clendenen, Jr. / Timothy Fisher



c/o Judiciary Committee, Room 2500  
Legislative Office Building  
Hartford, CT 06106

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### MINUTES

Thursday, November 10, 2016

8:00 a.m. Room 2B LOB

300 Capitol Avenue

Hartford, Connecticut 06106

The meeting was called to order at 8:15 a.m.

The following committee members were present:

Chair William H. Clendenen, Chair Dean Timothy Fisher, Judge Michael Albis, Brian Austin, Catherine Bailey, Work Chair Dean Jennifer Brown, Dan Cargill, Senator Eric Coleman, Nelsa Diaz for Jamey Bell, Mayor Dan Drew, Work Chair Judge Gerry Fox, III, Kathy Flaherty, Monte Frank, Judge Ingrid Moll, Susan Garcia Nofi, Robert C. Hinton, Walter Menjivar, Edward O'Hanlan, Work Chair Tim Shearin, Cecil Thomas, Alvin Wilson, Work Chair Michael Wishnie, Judge Glenn A. Woods, Perry Zinn-Rowthorn

The following committee members were absent:

Jason Frago, Senator John Kissel, Daniel D. Jo, Representative Rosa Rebimbas, Anthony Shannon, Judge Elliot N. Solomon, Susan Storey, Deborah Witkin

Motion to approve minutes for September 30, 2016 meeting by Tim Shearin, seconded by Edward O'Hanlan, and approved by the members.

Chair Clendenen mentioned that the questions to look at in terms of the services provided is, how will it get allocated? and who will allocate? Focus should be on the kind of services that are being provided and to look at the fundamental issues.

Chair Dean Timothy Fisher reminded the members of "where we are" in the process, and the goal of creating a statutory right to counsel in civil matters. The editorial work, the Task Force draft report, is due in one week, and the next meeting will be on November 21<sup>st</sup>. Each working group chair was asked to discuss their report and recommendations.

Dean Jennifer Brown – Chair, Goals and Principles Workgroup

- Must keep in mind are the fiscal, human, and societal consequences.
- With the wide array of legal needs that are unmet, housing needs seems to be at the crux of the issues.
- Top three priorities are housing, domestic violence, and family relationships (security in family relationships).

- Members discussed placing immigration as one of the top three priorities. Perhaps focusing on immigrants within the context of domestic violence. Also important are temporary restraining orders and eviction. Further, civil restraining order, civil order of protection, and criminal protective order are not interchangeable.

#### Michael Wishnie – Chair, Dismantling Barriers Workgroup

Discussed recommendations, supported by the members, for persons ineligible for legal aid but unable to afford market rate representation as follows:

- Raise the financial eligibility ceiling for non-LSC legal services organizations to 200% of the federal poverty level.
- Adopt or revise fee-shifting statutes in areas of significant unmet legal needs.
- Establish an accredited representative pilot program for matters ancillary to eviction defense proceedings and consumer debt cases.
- Partner with Bar Associations, law schools, and non-profits to establish subject matter specific lawyer incubators.
- Expand volunteer attorney programs to more locations and more areas of law.
- Implement pro bono requirement for applicants to the Connecticut Bar.
- Study the efficacy of unbundled services, alternative business structures, and other regulatory challenges.

Discussed recommendations, supported by the members, for addressing the inability of legal service providers to serve every eligible individual who seeks their services as follows:

- Increase state funding for legal service providers.
- Establish a right to counsel pilot program for low income residents in eviction, protective order, and/or detained removal proceedings.
- Commission studies of the fiscal impact of establishing a right to counsel in eviction, civil restraining order and detained removal proceedings.
- Redirect a portion of funds recovered in penalties and fines by the Office of the Attorney General (OAG) to legal services providers. Also discussed, that the OAG will most likely have suggestions during the drafting stage for this part of the recommendation.
- Enact a statute that would allocate a portion of punitive damages awards to organizations that provide legal services to low income residents. In addition, recommendation to include the Connecticut Bar Foundation.
- Pursue available private funding for legal services.

Discussed recommendations, supported by members, for addressing eligible individuals' lack of awareness of available legal service and reluctance and/or inability to seek legal help as follows:

- Establish annual "legal check-up" programs.
- Improve access to counsel for persons with disabilities.

#### Judge Gerald Fox III – Chair, Demand Workgroup

Discussed recommendations per the workgroup's report as follows:

- Use of plain language on agency websites, including guides, notices and other publications to help the public.
- Consider use of Online Dispute Resolution (ODR) for minor issues.
- Look for ways that agencies can utilize technology.
- Encourage agencies to utilize virtual systems.
- Require the legislature to request an independent "Admin" impact analysis prior to voting on new legislation that may have influence on the way a bureaucracy delivers services to individuals.
- Creation of a permanent commission or a legal services innovation center akin to the ABA's Center for Innovation.

- Encourage coordination of state, local and affinity bar associations to share resources, experience and knowledge.
- Members discussed that the fiscal impact of these recommendations are related to staffing issues.
- Discussed adding provisions referencing people with disabilities in the recommendations.

#### Tim Shearin – Chair, Systems Alignment and Modification Workgroup

Discussed that the charge of the workgroup is to assess the strengths and weakness of current services, and the inefficiencies built into the system.

Recommended that the Task Force remain in existence to continue and provide guidance to the legislature and the courts.

The workgroup had some overlapping recommendations with other workgroups such as:

- Funding of legal services providers through punitive damage awards and OAG recoveries.
- Mandatory pro bono for Connecticut attorneys and state employed attorneys.
- Strengthening the delivery of legal services through technology.
- Finding the use of vacant office space to provide for new attorneys starting out.
- Monte Frank mentioned that if the Connecticut Bar Association (CBA) is to consider mandatory pro bono for its members, the CBA will need a more robust mentoring program than what is currently in place.
- Members discussed the possibility of considering the issue of opiate addiction as part of the legal check-up.
- Senator Coleman discussed recommending to the legislature that investment dollars in this area could result in future savings.
- Members discussed that law school incubators are already being considered by area law schools. In addition, law schools should consider engaging 1L students in clinics.

#### Dean Timothy Fisher – Task Force, Co-Chair

- Discussed the number of proposed recommendations in the area of empirical research and study.
- Members also recommended including veterans.
- In reviewing the discussions, the Task Force is not in consensus with regard to what the top three priorities of “essential human needs” should be. Also not in consensus is the mandatory pro bono requirement.
- Requested that members keep in mind to draft language that will not be difficult for the legislature to consider a statutory right to counsel.
- Mayor Dan Drew cautioned members about mandated provisions of service without a concomitant service structure.

Member of the public Ms. Gray testified in front of the Task Force with complaints about the predatory actions of judges and lawyers.

Meeting was adjourned at 10:15 a.m.