

# Civil Legal Aid Ensures Access to Justice for All

**The State Bar Board of Governors believes that Wisconsin lawmakers should help cover the “justice gap” by increasing state funding for civil legal aid providers through sustainable, long-term state budget allocations.**

BY CALE BATTLES, LYNNE DAVIS, AND DEVIN MARTIN

Most people are familiar with the concept of “the right to an attorney.” The phrase is ubiquitous in books, movies, and television dramatizations of courtrooms. However, not all people fully appreciate the distinction between criminal and civil matters, mistakenly assuming that if they ever find themselves in a civil legal dispute, they can count on legal representation.

Of course, this assumption isn’t correct, and not everyone who is embroiled in a civil legal dispute can afford an attorney. Many Wisconsin residents struggle to secure legal representation for housing, employment, family, or other matters in civil court. Without legal assistance, thousands of Wisconsin individuals and families face a very real barrier to accessing justice, falling into the “justice gap.” Civil legal aid is a necessary tool to help ensure that all people, regardless of income, have access to justice.

Civil legal aid provides free or low-cost legal assistance to low- and middle-income people, helping them to access necessities like health care, housing, employment, and educational services. Civil legal aid also has a far-reaching impact on the judicial system as a whole. When individuals have legal representation or receive qualified advice about the legal process and their rights, it increases courtroom efficiency, reduces court crowding, and improves public confidence in the U.S. system of fair and impartial justice.

There is a need for civil legal aid in every Wisconsin county. Eligible clients include older adults, veterans, families with children, domestic abuse survivors, people with disabilities, landlords and tenants, and crime victims, among others. But too often, people are turned away due to a lack of resources from civil legal aid providers. This problem is especially acute

in rural areas of Wisconsin, where there is a shortage of attorneys for both criminal and civil matters.

Robert Forseth of Rural Access to Justice Inc., a Waupaca law firm, sees such issues frequently in his practice when he refers people to free civil legal aid providers. “More and more, we’re seeing clients come back to us telling us that [civil legal aid] providers don’t have enough resources to take their cases, even though they are eligible.” The limited amount of civil legal aid, the overall shortage of rural attorneys, and the costs of retaining an attorney for even small matters can drive some people to choose self-representation or forgo seeking justice from the courts altogether.

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Wisconsin's family courts are a good example: in some districts, it is estimated that 70% of family court cases involve self-represented parties.<sup>1</sup> Self-represented litigants can be unfamiliar with court procedures or make frequent mistakes, which can take up valuable court time and resources while they learn what is needed from a judge or commissioner to move their case forward. In some instances, additional limited-scope assistance for self-represented litigants can help them successfully navigate the family court system to find satisfactory outcomes. In more contested or complex situations, the best option may be for all parties to be represented by attorneys.

Judge Daniel Overbey, a Vilas County Circuit Court judge, agrees that having more civil legal aid could help streamline the legal process. "Generally, unrepresented people take up more time than represented litigants. That court time includes a judge, a court reporter, and a clerk. I see a lot of requests for restraining orders where the parties might get a quicker and more satisfactory outcome if they first had access to legal advice. Not every conflict warrants a restraining order. While I cannot give

unrepresented parties legal advice, I often try to guide them towards a resolution that does not require court intervention. Although it can be more time consuming than just making a ruling, I have found it ultimately saves time as parties who can work it out themselves are less likely to return in the future," Judge Overbey says.

poverty level), and 75% of those low-income households in the Midwest had one or more civil legal problems in 2021.

The largest single source of funding for civil legal aid programs in Wisconsin is the Legal Services Corporation (LSC), allowing the two Wisconsin LSC grantees, Legal Action of Wisconsin and Judicare Legal Aid, to serve over 10,000

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Whether it involves assisting people with legal advice, offering dispute resolution and mediation, or providing full representation to move cases forward efficiently and professionally, more civil legal aid funding is necessary for legal aid providers to hire more attorneys and to assist more clients.

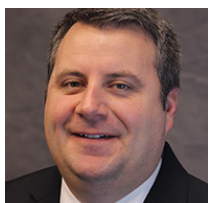
**Funding for Civil Legal Aid**

Funding for civil legal aid comes from a variety of sources, including the Legal Services Corporation and federal grants, court assessments on attorneys, private grants, philanthropy, and more. Some funding is routed through the Wisconsin Trust Account Foundation (WisTAF), which collects and disperses funds to groups such as Legal Action of Wisconsin, Judicare Legal Aid, the Legal Aid Society of Milwaukee, Disability Rights Wisconsin, ABC for Health, and Centro Legal. Together, this combination of funding and providers helps thousands of eligible individuals and families solve civil legal problems that help them stabilize their families, maintain safe housing, and obtain and retain gainful employment.

Unfortunately, current funding levels don't match the enormous and growing need for civil legal aid in our state. As reported in *InsideTrack*,<sup>2</sup> there is roughly one attorney for every 4,300 Wisconsinites with low incomes (defined as below 125% of the federal

low-income clients each year. Federal LSC funding has remained flat for decades, increasing from \$300 million in 1980 to \$489 million in 2022. Adjusted for inflation, \$300 million would be more than \$900 million in 2022 dollars. Legal Action of Wisconsin, which serves the state's southern 39 counties, receives an average of 26,000 requests for legal help annually, with requests for legal services reaching a new high in 2023. Still, Legal Action of Wisconsin declined about 75% of eligible applicants due to a lack of resources. Judicare Legal Aid, which serves Wisconsin's northern 33 counties, turned away 64% of the more than 5,000 applications it received in 2023.

Having local, sustainable, long-term state funding for civil legal aid in Wisconsin would be the ideal solution to the growing need. State lawmakers could help bridge the "justice gap," and in fact, they once did: the Wisconsin Legislature provided \$1 million in state tax dollars for civil legal aid in the 2007-09 state budget. In the 2010-11 budget, funding was increased to over \$4.5 million for the biennium using a court surcharge instead of state tax resources, but this funding source was eliminated in 2011. Since 2015, the Wisconsin Legislature has allocated \$500,000 of federally collected dollars from Temporary Assistance to Needy Families (TANF) funds for legal services



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annually, with the aid being restricted to TANF-eligible survivors of domestic violence and sexual abuse.

In March 2022, Governor Tony Evers announced a one-time grant of \$8 million from federal coronavirus pandemic relief funds to help address the massive increase in unmet civil legal needs of Wisconsin residents resulting from effects of the pandemic. This extra funding was only temporary, however, and like the rest of civil legal aid funding since 2010, the money is federal tax dollars.

Funding civil legal aid isn't just an issue of justice and fairness – it can bring economic returns, too, as WisTAF discovered in its 2023 report “Economic Impact of Civil Legal Aid in Wisconsin.” Paying for civil legal aid today avoids higher costs later, making it a wise investment that can save taxpayers money. For every \$1 invested, Wisconsin’s civil legal aid providers obtain more than \$8 for their low-income clients in the form of child support, security deposits, jobs obtained, and more.<sup>3</sup>

Investing in civil legal aid:

- results in fewer emergency room visits, shelter stays, and police calls for domestic abuse victims;
- increases child support payments that reduce the need for public benefits;
- increases job readiness and reduces unemployment claims, leading to higher tax revenue and greater self-sufficiency; and
- provides safe, stable families and homes for children so they can focus on learning.

Other states recognize the societal and economic benefits of civil legal aid funding. In a May 2021 budget paper, the nonpartisan Legislative Fiscal Bureau included a chart showing Wisconsin public spending on civil legal aid in 2019 was far below that of neighboring states. Minnesota leads with over \$14 million in spending, followed by Michigan at just under \$6.5 million, while Illinois, Iowa and Indiana each contribute over \$1 million per year.<sup>4</sup>

### Lawmakers Should Increase State Funding for Civil Legal Aid

The State Bar of Wisconsin’s Board of Governors believes that Wisconsin lawmakers should help cover the “justice gap” by increasing state funding for civil legal aid providers. The Board of Governors believes that the best way to fund civil legal needs is through sustainable, long-term state budget allocations. Commitment to regular funding for civil legal services ensures that access to justice does not depend on one-time infusions of funds.

In Wisconsin and around the nation, civil legal aid enjoys bipartisan support for a good reason: people believe equal justice under the law is a right, not a privilege – and civil legal aid helps to make that sentiment a reality for people with fewer financial resources. It helps people of all backgrounds and ages, saving taxpayers money while ensuring equal access to justice for all.

Substantial new state investment in civil legal aid, while modest in the scope of the overall Wisconsin budget, would be a major step forward for eligible clients as well as taxpayers. **WL**

#### ENDNOTES

<sup>1</sup>Wis. Pro Se Working Grp., *Meeting the Challenge of Self-Represented Litigants in Wisconsin* (Dec. 2000), <https://www.wicourts.gov/publications/reports/docs/prosereport.pdf>.

<sup>2</sup>*Economic Impact of Civil Legal Aid in Wisconsin* (July 2023) (commissioned and funded by Wisconsin Trust Account Foundation Inc.), [https://www.wistaf.org/doc/Economic\\_Impact\\_Study\\_Final\\_Report\\_-\\_WisTAF.pdf](https://www.wistaf.org/doc/Economic_Impact_Study_Final_Report_-_WisTAF.pdf).

<sup>3</sup>Wis. Legis. Fiscal Bureau, *Civil Legal Assistance* (May 2021), Budget Paper #110 to Joint Committee on Finance, [https://docs.legis.wisconsin.gov/misc/lfb/budget/2021\\_23\\_biennial\\_budg3Cet/302\\_budget\\_papers/110\\_administration\\_general\\_agency\\_provisions\\_civil\\_legal\\_assistance.pdf](https://docs.legis.wisconsin.gov/misc/lfb/budget/2021_23_biennial_budg3Cet/302_budget_papers/110_administration_general_agency_provisions_civil_legal_assistance.pdf).

<sup>4</sup>Joe Forward, *Legal Aid Groups Seek Increase to Annual Fee Assessed to Wisconsin Lawyers*, *InsideTrack* (Oct. 2, 2024). **WL**

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