

CIVIL LEGAL SERVICES

LEGAL SERVICES FOR THE INDIGENT

Statement of position

Adopted by the League in 1975:

The rights of the defendant should be protected at every stage of a criminal proceeding. At present, indigent defendants must be provided counsel at full public expense. The quality of defense provided for the indigent should be improved by better training and screening of attorneys. Funding for indigent defense should come from all levels of government

In 1983, this portion of the position was broadened to include civil as well as criminal proceedings.

Interest on Lawyer Account Fund (IOLA)

An innovative method of providing funding for civil legal services to the poor, the Interest on Lawyer Account Fund (IOLA), was supported by the League and enacted in the 1983 legislative session. The fund became operational in October 1984. This program allows attorneys to invest nominal or short-term client deposits so that these otherwise idle funds can be pooled in an interest-bearing bank account. The interest income is channeled to the IOLA Fund of the State of New York, which administers the program and makes grants to law-related public interest programs such as legal service agencies.

In the 1988 legislative session, the League successfully supported legislation to make attorney participation in the IOLA program mandatory. Attorney recruitment efforts were not as successful as originally anticipated. Only 15% of the estimated 60,000 eligible attorneys chose to participate in the voluntary program. Under the mandatory program, IOLA is expected to generate at least \$6 million annually, compared to the \$1.3 million raised in 1987 under the voluntary program.

The League lobbied extensively to get Senate support for this legislation, and the bill was passed and signed into law by the governor. However, since 1997 the constitutionality of this program is being questioned and the future of IOLA appears uncertain.

Disabled Advocacy Program

The League successfully supported creation (1983), continued funding (1985), and increased funding (1987) for the Disabled Advocacy Program (DAP) which provides civil legal services for disabled New Yorkers who have been denied federal disability benefits under standards found to be illegal by the federal courts. By providing legal representation, the Disabled Advocacy Program has allowed disabled citizens of the state to successfully contest wrongful termination or denial of their federal Social Security Disability (SSD) or Supplemental Security Income (SSI) benefits in 85 percent of the cases undertaken.

Funding for Civil Legal Services

In February 1999, League presented testimony at the Public Hearing of the Senate Finance and the Assembly Ways and Means Committees on the Proposed Executive Budget. Our message was: Include \$13.6 million in funding for Legal Services in the 1999-2000 budget and craft a permanent solution to funding for Legal Services as outlined in Chief Judge Kaye's Legal Services Project Report.

The proposed executive budget provided no funding for civil legal services. This despite the fact the civil legal services programs across the state continue to suffer from last year's loss of state funding. In an effort to rein in spending, last year the governor vetoed more than \$1.5 billion in funding added to the budget by the legislature. Caught in this sweep was almost \$7 million in funding for Civil Legal Services. In response, local programs have scaled back on services, imposed hiring and salary freezes, left vacant positions unfilled, and in some instances undertaken lay-offs. Programs have worked tirelessly to raise additional funding but the real need is for a permanent statewide funding stream for these vital services.

At the end of the 1999 legislative session League was notified in August that the state budget included over \$7 million for civil legal services program. However, the bill to create a permanent funding source passed the Assembly in June 1999 but the Senate failed to act on any proposal for any permanent funding source. The Assembly and the League will continue efforts to secure this permanent funding source for civil legal services.

When provided, Legal Services is a stabilizing effective force. By working with local social services offices, legal services can ensure that rent payments flow appropriately to landlords, avoiding evictions and costly shelter stays. By representing those who have been inappropriately denied or terminated from federal disability benefits, legal services is able to provide financial stability to low income families while at the same time helping to avoid unnecessary state welfare costs. By helping a young mother secure the child support to which her child is entitled, legal services is able to provide some measure of economic security and again help the family avoid the need for public assistance.

Alternative Dispute Resolution

A portion of the League's pretrial procedures position, diverting certain cases from overcrowded courts to be solved by other means, was broadened to include civil cases. (See pretrial procedures position statement.)

Community Dispute Resolution Centers Program

In 1981, the League supported legislation to create the Community Dispute Resolution Centers Program to facilitate the just and speedy resolution of small disputes by furnishing partial (50%) state support for the creation and operation of such centers for conciliation, mediation, and arbitration as alternatives to pursuing action in civil or criminal court. Since 1981 a series of amendments have enhanced the authority and scope of the centers: in 1984 the program became a permanent part of the Unified Court System, the nation's only permanent state-funded program of its kind; in 1985 the jurisdictional ceiling on monetary awards was increased; and in 1986 referral of selected felonies to these centers for mediation was authorized.

Funding for local programs is based on the 50% principle; the state supplies half of the operating costs and local public and private sources supplies the other half. In 1987, the League successfully supported legislation to provide basic annual grants of up to \$20,000 to each county served to benefit a sizable number of smaller counties having trouble in securing sufficient local funding. Operating costs beyond the minimum grant continue to be funded on the 50% principle. Centers have been established in all of the New York State's 62 counties.

As part of our continuing interest in alternatives to court action, the LWVNYS participated in the planning of the 6th New York State Conference on Alternative Dispute Resolution in September 1989.

Small Claims Court

In 1987, the League successfully supported a bill raising the jurisdictional limit in small claims court from \$1500 to \$2000. This measure provides residents of New York State with continued access to simple, inexpensive, dispute resolution procedures and diverts cases from overcrowded calendars in the higher civil courts.