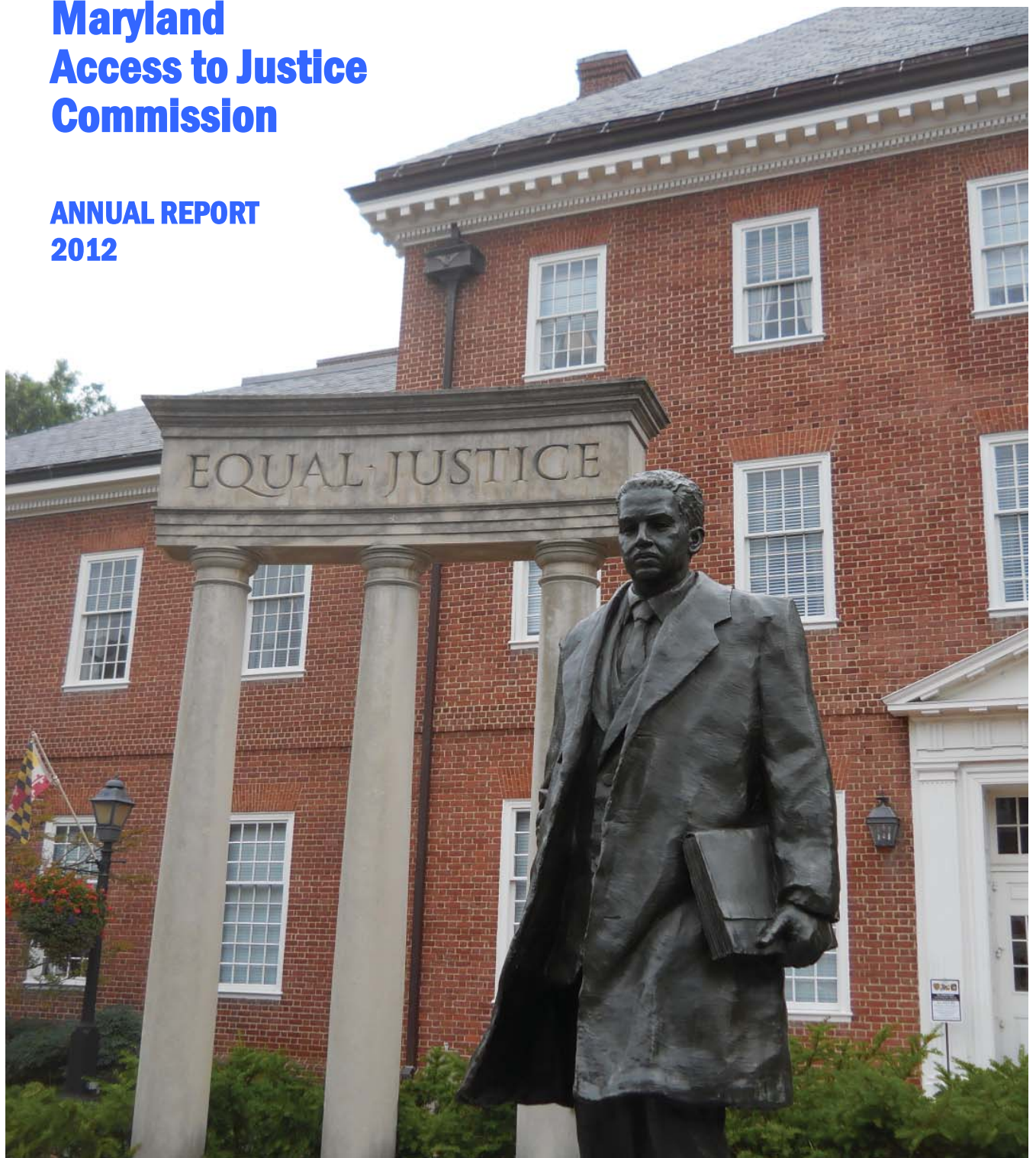
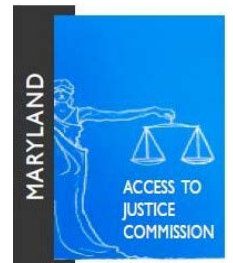


Maryland Access to Justice Commission

**ANNUAL REPORT
2012**



Maryland Access to Justice Commission
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OUR MISSION

By bringing together leaders and stakeholders from the Maryland Judiciary and its justice system partners, the Commission gives meaningful voice to the public whose interest it serves. Therefore . . . the Commission shall develop, consolidate, coordinate and/or implement initiatives designed to, and which are consistent with the Judiciary's policy to expand access to, and enhance the quality of, civil justice for persons who encounter barriers in gaining access to Maryland's civil justice system.

Duties. To carry out its purposes, the Commission shall:

- (i) Consult extensively with members of communities that experience barriers to justice, including persons living in poverty, language minorities, persons with disabilities, and others, to obtain their views regarding the barriers to equal justice and proposed solutions;
- (ii) Establish a coordinated planning process that involves members of the community affected by the crisis in equal access to justice in an effort to develop strategies to improve access and reduce barriers;
- (iii) Facilitate efforts to create improved coordination and support of civil legal services programs;
- (iv) Work with the courts, administrative agencies and lawmaking bodies to propose and promote rules and systemic changes that will open greater access to the justice system; and
- (v) Propose and promote strategies to generate adequate levels of public, private and volunteer resources and funding for the State's civil justice network and the access to justice initiatives identified by the Commission.

Excerpted from:

Maryland Court of Appeals, Administrative Order as to the Maryland Access to Justice Commission, 19 March 2010.

Defining Access to Justice for Maryland

Access to justice means all Marylanders can benefit from the rights, protections, services and opportunities that the law and the legal system provide. Having access to justice requires that the information and resources Marylanders need to access these rights are adequately funded and are available regardless of ability, age, gender, religion, institutionalization, income, language, literacy, race, ethnicity or sexual orientation.

Access to justice must include:

- *Practices, procedures and resources that support the ability of the self-represented to navigate through and fully participate in the legal system, including online resources.*
- *Courthouses and facilities housing law-related services that are supported and maintained with adequate funding in order to be safe, accessible, convenient, and technologically current.*
- *The availability of a full range of legal services including information, advice, appropriate referrals, and full representation by an attorney, as necessary.*
- *The opportunity to participate in mediation or other appropriate dispute resolution services as well as the opportunity to understand their benefits and limitations.*
- *The commitment of all branches of government to support these principles through fiscal and legislative policies designed to make them a reality for all Marylanders.*

Maryland Access to Justice Commission

Hon. Irma S. Raker

Chair, Maryland Access to Justice Commission
Judge (Ret.), Court of Appeals of Maryland

Hon. Ben C. Clyburn

Vice-Chair, Maryland Access to Justice Commission
Chief Judge, District Court of Maryland

Richard Abbott

Family Division Director, Circuit Court for Baltimore County

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Steve Anderson

State Law Librarian, Maryland State Law Library

Cathy Ashby

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Chair, Judicial Institute
Judge, Court of Appeals of Maryland

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Executive Director, Problem-Solving Courts Committee

Mark Bittner

Executive Director, Judicial Information Systems, Administrative Office of the Courts

Sandy S. Brewer

Chair, Conference of Maryland Court Law Library Directors

Frank Broccolina

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Tammy Brown

Executive Director, Governor's Office on Crime Control & Prevention
Member and Designee for Governor Martin O'Malley

Del. Michael E. Busch

Speaker, Maryland House of Delegates
Designee: Del. Kathleen Dumais

Chadfield B. Clapsaddle

Exec. Dir., Ofc. of Capital Budgeting, Dept. of Budget and Management
Designee: Kwame Kwakye

Hon. Sandra K. Dalton

Chair, Conference of Circuit Court Clerks
Clerk, Circuit Court for Frederick Co.

Mary Joel Davis

Former Executive Director, Alternative Directions and Executive Director, Second Chances

Paul B. DeWolfe

Public Defender, Office of the Public Defender

Barbara Domer

Chair, Conference of Court Administrators
Court Admin., Cir. Ct. for Frederick Co.

Hon. Kathleen Dumais

Delegate, Maryland House of Delegates
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Executive Director, Maryland Legal Services Corporation

Hon. Douglas Gansler

Attorney General
Designee: Joshua Auerbach

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Fedder and Garten Professional Assn.

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Executive Director, Pro Bono Resource
Center of Maryland

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Designee: Michael Millemann

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Judge, Baltimore City District Court

Hon. Glenn T. Harrell, Jr.
Judge, Court of Appeals of Maryland

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Past President, Maryland State Bar Assn.

Wilhelm H. Joseph, Jr.
Executive Director, Legal Aid Bureau, Inc.

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President, Maryland State Bar Assn.

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Designee: Hon. Shirley M. Watts

Hon. Daniel Long
Chair, Legislative Committee
Admin. Judge, Circuit Ct. for Somerset Co.
Designee: Hon. William D. Missouri

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Professor, Univ. of Maryland School of Law
Designee for Phoebe Haddon

Sen. Thomas V. "Mike" Miller, Jr.
Senate President, Maryland Senate
Designee: To be filled.

Hon. William D. Missouri
Circuit Court for Prince George's Co. (ret.)
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Administrative Judge, Second Circuit and
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Letter from the Chair



Dear Colleagues:

I am pleased to share with you this *Annual Report* reflecting on the work of the Maryland Access to Justice Commission during 2012.

During the year, the Commission was able to support the ability of courts to respond to the self-represented, focus some of its efforts on reforms and strategies to create more accessible courts, programs and resources, and redoubled its efforts on critical law reform strategies to increase rights and develop market incentives to enhance the ability of low-income individuals to secure legal help when they need it.

Working together Judicial and Bar leaders, legislators, agency professionals, civil legal services providers and the community at large can determine whether and how our civil justice system will operate to the benefit of our most vulnerable residents.

We look forward to continuing this important work in the coming year as we renew our commitment to ensure equal access to justice for all.

Sincerely,

A handwritten signature in black ink that reads "Irma S. Raker".

Irma S. Raker
Maryland Court of Appeals (ret.)
Chair, Maryland Access to Justice Commission

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Introduction

Since its creation in 2008, the Maryland Access to Justice Commission has played an important role advocating for innovations, investments and reforms that enhance access to Maryland's civil justice system. Civil legal services providers struggle to meet the needs of low-income residents as program funding is cut and demand continues to increase. Courts are met with increasing numbers of the self-represented. The public continues to find it difficult to secure legal help when they need it. The work of the Maryland Access to Justice Commission remains critically relevant.

This report outlines the activities of the Maryland Access to Justice Commission during 2012. The Commission continues to do most of its work through its five committees:

- Access & Delivery of Legal Services Committee
- Critical Barriers Committee
- Definitions, Standards & Awards Committee
- Public Education Committee
- Self-Represented Litigant Committee

During 2012, the Commission continued to pursue a range of strategies to advance the goal of a fair and efficient civil justice system, accessible to all.

Supporting the Self-Represented

District Court Self-Help Center: Institutionalizing the Pilot Project

Having successfully assisted the District Court in establishing its new statewide self-help center, the Maryland Access to Justice Commission passed on management of the contracts for Center operations. Those contracts are now managed by District Court Headquarters and funding for the project has been assumed by the District Court. During the Summer of 2012, the District Court increased staffing at the Center which now employs 4 full-time attorneys, a supervising attorney and an administrative assistant. The District Court has included the costs of the Center in its Fiscal Year 2014 budget request, in an effort to institutionalize the now fully operational Center.

Project Evaluation

The Court Operations Department of the Administrative Office of the Courts, in collaboration with the University of Maryland, School of Social Work, and the Maryland Judiciary Research Consortium, completed an evaluation of the District Court Self-Help Center.

The project evaluation period was January 2010 through June 2011. Researchers also collected comparative data from cases and self-represented litigants in the 6-months prior to the evaluation period. The project period focused on the initial pilot and does not include information about the expansion of services that took place in late 2011 with the addition of live chat and telephone services. Evaluators looked at the impact of the Center on eight key events. In seven of the events they examined, they did see a favorable increase in activity that suggests greater engagement and understanding of the self-represented about their case. These included increases in the filing of the notice of intent to defend, subpoenas issued, notice of service of answers to interrogatories, settlement agreements reached and vacated judgments. There were more individual landlords in housing cases, compared to corporate landlords, during the pilot project. There was also an increase in motions for stay of eviction filed by tenants.

Broadening the Center's Impact

The District Court Self-Help Center opened its doors in December 2009, and served 4,300 individuals during its first year of operations. With new live chat and telephone services in place, the Center now serves approximately 1,900 – 2,000 clients per month. The Center has served over 20,000 individuals during 2012.

Helping Courts and Providers Communicate More Effectively with the Self-Represented

Writing for Self-Represented Litigants

During 2012, the Maryland Access to Justice Commission published a short guide to aid court and legal service professionals in communicating effectively with the self-represented. *Writing for Self-Represented Litigants: A Guide for Maryland Courts and Legal Service Providers* offers tips on word choice, grammar, readability and layout techniques writers can use to ensure their materials can be effectively used by persons without counsel. The document is available on the Commission's website and has been distributed to courts and legal services providers.

Developing Core Resources for the Self-Represented

Access to Court Records and Expungement Brochures

The Commission created four brochures about access to court records that explain what the public can and can't see, and how to request that the court limit public access to court records. The brochures explain the complex rules governing access to court records and explain the procedures necessary to request those records be sealed, shielded or expunged. The brochures have been made available in English and Spanish and address the following topics:

1. *What can the public see about me in court records and on Maryland Case Search?* – with general information for the public.

2. *Can I keep the public from seeing information about me in a court case?* – with help for people who want to limit access to information in the court’s records.

3. *Can I keep the public from seeing information about me in a peace or protective order case? (for respondents)* – with information on the specific procedure required for people who are or have been the respondent in a peace or protective order case.

4. *Expungement of criminal records* – with information for state criminal defendants on how to request the removal of a criminal record from Maryland state court records.

The brochures are available at most courthouses throughout the state and can be viewed and printed from the Judiciary’s website. Legal services providers can also order free copies of the brochure online to distribute to the public.

Media Projects

The Maryland Access to Justice Commission continued to collaborate with the Judiciary’s Office of Communications & Public Affairs to develop a series of written and multimedia projects to provide information to individuals who must proceed in the courts without the benefit of counsel. The Commission has a number of Powerpoint videos, live action videos and podcasts in development on a range of procedural and legal consumer topics. The Office of Communications & Public Affairs developed a short format template it will be using for legal content videos, and retained a professional narrator to do the voiceovers. The Commission plans to release several completed videos during 2013.

These materials are intended to supplement the web-based information available from the People’s Law Library, www.peoples-law.org, Maryland’s legal content website, and in written brochures from the courts and various legal services providers.

Ensuring Court Technologies Promote Access to Justice

MDEC Rules

At the request of the Court of Appeals Standing Committee on Rules of Practice and Procedure, the Commission provided comments and recommended changes to the proposed rules that will govern the implementation of the Judiciary’s new comprehensive case management system, the Maryland Electronic Courts (MDEC) project. Among other things, the Commission commented that electronic filing should be optional for self-represented litigants and noted that seniors, persons with limited English proficiency, low-income individuals and the incarcerated are likely to face barriers to e-filing. The Commission suggested a number of ways the Judiciary could create incentives to promote e-filing that would also enhance access to justice. The draft rules remain pending with the Rules Committee at this time.

Supporting Judicial Engagement with the Self-Represented

Proposed Change to Code of Judicial Conduct

At its December meeting, the Commission reviewed and endorsed a resolution adopted earlier in the year by the Conference of Chief Judges and the Conference of State Court Administrators. Resolution 2 would strengthen the language in the Maryland Code of Judicial Conduct about how judges interact with the self-represented. Maryland's version of the rule referenced in the resolution, Rule 2.2, includes in a comment a provision that it is not a violation of the rule requiring judicial impartiality and fairness for a judge to make "reasonable accommodations" to ensure a self-represented litigant the opportunity to have his or her matter fairly heard. The proposed change would move the language supportive of the self-represented into the body of the rule. The proposal was forwarded to the Rules Committee where it is currently pending.

Court Reforms and Innovations

Fee Waivers for Indigent Legal Services Clients

During 2012, the Commission continued to advocate for a proposal it adopted and endorsed and forwarded to the Court of Appeals Standing Committee on Rules of Practice & Procedure (Rules Committee) designed to:

- Ensure that courts automatically waive the filing fee prepayment requirement for litigants represented by Maryland Legal Services Corporation (MLSC)-funded providers;
- Extend the automatic waiver to those represented in civil matters by the Office of the Public Defender;
- Improve the process for fee waivers requested by self-represented litigants who may be indigent by requiring the application of MLSC income-eligibility guidelines as a standard for fee waivers for self-represented persons who allege indigency.
- Make some corrections and update the current fee schedules and rules.

The proposal includes recommended changes to Maryland Rules 1-325, 2-603 and 3-603, and would highlight fee waiver provisions by including in the rules some of the material that now is only available in a fee schedule posted on the Judiciary's website. The proposal remains pending with the Rules Committee.

Innovations in the Practice of Law to Enhance Access

Harnessing the Power of Cy Pres Awards

Class Action Residual Funds Toolkit

Since its creation, the Maryland Access to Justice Commission has made an effort to investigate every possible funding resource used in other states to generate resources for civil legal services. One area several states have targeted is unclaimed funds that remain after awards have been distributed in a class action. Funds often become available because class members cannot be located, or fail to submit claims, or because the court determines that awards to individual class members are so small they provide negligible benefit to those individuals. Residual funds may then be put to their next best use in the form of a *cy pres* award to an outside entity, such as a legal services program, that the Court and counsel agree will serve the interests “as near as possible” of the injured class.

Five states -- Illinois, Massachusetts, North Carolina, Tennessee and Washington State -- have passed legislation or adopted court rules to channel and promote awards of class action residual funds to legal services organizations.

During 2011, the Commission proposed a change to Maryland Rule 2-231, the rule governing class actions, to direct *cy pres* awards made from class action residual funds to appropriate civil legal services providers. The Judgments Subcommittee of the Rules Committee reviewed the proposal during 2012, determining that it was a substantive matter more appropriate for legislation, and declined to forward the proposal on for consideration by the full Rules Committee.

In lieu of a rule or statute, the Maryland Access to Justice Commission launched an educational initiative, publishing a *Class Action Residual Funds Toolkit*, to encourage private lawyers to direct *cy pres* awards to the state’s non-profit civil legal services providers. The *Toolkit* helps attorneys interested in directing unclaimed funds from such cases to one of Maryland’s non-profit organizations that provide legal help to the poor.

The Commission is planning an educational seminar on the topic, using the *Toolkit*, which will be presented at the Maryland State Bar Association Annual Conference in Ocean City, in June, 2013.

Limited Scope Representation

During the past year, the Commission has continued to monitor the rule-making process for its proposed rules to promote the practice of limited scope representation. The rules, developed by the Commission during 2010, were intended as a follow-up to an earlier Commission white paper which urged the development and provision of “unbundled” legal services as a way to make legal help financially-

feasible for low- and moderate-income individuals. The proposed rules remain pending with the Rules Committee.

Supporting Public Interest Practice

Making It Easier for Out-of-State and Retired Attorneys to Serve

Proposed Pro Bono Practice Rule

This past year, the Maryland Access to Justice Commission began exploring ways to facilitate pro bono practice among attorneys barred elsewhere but residing or working in Maryland. Maryland has a disproportionately high percentage of attorneys who move to the area to work in government service. Those who serve with the federal government may not need to be barred in Maryland, but are willing and interested in serving here as pro bono attorneys. The Commission is also interested in promoting pro bono practice among emeritus attorneys, those who have retired and who may not want to maintain an active practice, but who might be interested in serving pro bono.

The issue was brought to the Commission's attention by the Department of Justice (DOJ). DOJ operates a pro bono program for its attorneys, through which they are able to place out-of-state attorneys in pro bono assignments in Washington, DC, thanks to DC Rule 49. DOJ initially contacted the Administrative Office of the Courts, Office of Legal Affairs, who referred them to the Commission. DOJ would like to expand its program and place some of its attorneys, especially those who reside in Maryland, in pro bono placements here. The current rules climate, however, creates barriers for those who might otherwise serve. The Commission's Access & Delivery of Legal Services Committee spent several months reviewing the DC rule and similar rules from other jurisdictions.

The result of these deliberations was the creation of a proposed new pro bono practice rule. The proposal was also reviewed and endorsed by the Standing Committee on Pro Bono Legal Service. It has been forwarded to the Rule Committee for further consideration, where it remains pending.

Funding For Civil Legal Services

Pending Changes and Remedies for Civil Legal Services Funding

Due to the economic crisis and unprecedented low interest rates, one primary source of civil legal services funding, the Interest on Lawyers Trust Accounts (IOLTA) program had plummeted from \$6.7 million in Fiscal Year 2008 to \$2.2 million in Fiscal Year 2010. To address this significant decline, the Maryland Access to Justice Commission partnered with the Maryland Judiciary, the Maryland Legal Services Corporation, Maryland Legal Aid and others to advocate for an increase in court filing fee surcharges to generate additional revenue to support civil legal services.

With its partners, the Commission successfully advocated for the passage of Senate Bill 248 during the 2010 Legislative Session.

During 2012 the filing fee surcharge continued to generate over \$12 million for civil legal service programs. This was critical as IOLTA revenues remained historically low generating only approximately \$2.5 million during this same period. The total state revenue for civil legal services during this period was slightly under past years, and MLSC continued to draw from reserves to make grants to existing programs within only modest cuts. The filing fee surcharge increase provided critical resources and enabled most Maryland legal service providers to continue operations at a basic level.

Pending Funding Legislation

During the Fall of 2012, the Commission strategized with its partners, including MLSC, how to address the upcoming sunset of the filing fee increase as the remedies put in place in 2010 are set to expire at the end of June, 2013. During the 2013 legislative session the Commission has actively supported two bills intended to address the ongoing funding crisis. House Bill 838/Senate Bill 640 would lift the sunset on the filing fee increase implemented in 2010. This would permit MLSC to continue to receive the revenue from filing fee surcharges at the current rate. If the bill fails to pass, MLSC and its grantees will experience a 40% drop in funding. House Bill 1303 / Senate Bill 809 would increase the appropriation MLSC receives from the Abandoned Property Fund from \$500,000 to \$3 million. This \$2.5 million increase would bring a measure of stability to the delivery system, and eliminate the need for further cuts to existing programs. At the time this report was prepared, both bills were pending before the General Assembly.

Supporting Funding with Research

In preparation for the 2013 legislation session, the Maryland Access to Justice Commission collaborated with its justice system partners to study the impact civil legal services providers have on the state's economy. The Commission met with providers to solicit their help in gathering data. In January, the Commission released its report entitled, *Economic Impact of Civil Legal Services in Maryland*. Maryland nonprofit civil legal services programs generate 190 million dollars each year statewide in economic activity, cost savings and increased productivity as a result of their advocacy. The report establishes that the work of civil legal services programs in Maryland significantly boosts the state's economy by bringing in millions of federal dollars, improving the lives of low-income Marylanders, and saving the State millions in expenditures.

In Fiscal Year 2012, advocacy by Maryland civil legal aid providers:

- Brought **\$9.9 million** in **federal dollars** into Maryland to benefit state residents. Those dollars translated into at least \$12.6 million in economic stimulus for local economies.

- Obtained **\$10.7 million** in **other direct financial benefits** for Maryland residents.
- Secured **\$161 million** as a result of **systemic advocacy** on behalf of tenants at risk of eviction, vulnerable homeowners and low-income persons in need of emergency assistance.
- Resulted in at least **\$882,096** in **tax revenue** by keeping Marylanders in the workforce.
- **Saved** at least **\$3.7 million** in state expenditures on **shelter costs** alone by preventing homelessness.
- **Saved** at least **\$1.3 million** in health costs and productivity by preventing **domestic violence**.

The report focused on Fiscal Year 2012 (July 1, 2011-June 30, 2012). The data about direct financial benefits to clients was provided by Maryland Legal Aid and the Homeless Persons Representation Project, just two of the state's 35 legal services providers, and included the amount of actual dollars awarded or financial savings achieved from cases handled during FY 2012. The value of systemic advocacy work was compiled by the Public Justice Center and the Homeless Persons Representation Project, and measured the economic benefits for thousands of low-income Marylanders brought by work in several key initiatives.

Few providers have access to the full range of data required to produce the report, so the study reflects only a partial picture of the economic benefits these providers generate. If other providers had been able to provide data, the direct and indirect financial benefits would measure higher.

To analyze the indirect benefits from legal aid advocacy, the Commission used data about social benefits achieved on behalf of individual clients, including those likely to result in increased tax revenue for the state and savings in costs associated with homelessness and domestic violence. The data comes from annual reporting provided to the Maryland Legal Services Corporation (MLSC) by each of its grantees.

Each year, thousands of Marylanders get legal help from lawyers and others who staff Maryland's nonprofit legal providers, or who offer pro bono help through one of the 35 legal services programs that receive state funding through MLSC. Their work benefits not only their clients, but has a significant, positive impact on the state's economy.

The Commission provided copies of the report as a part of its written testimony on the two funding bills, and has used the data from the report in testifying on those bills during the current session.

Donation Page

The Commission has created a vehicle to help reinforce knowledge about the delivery system among Maryland's lawyers, and to give those attorneys an opportunity to support legal services organizations in the State. During 2012, for the first time, the Commission added a single web page to the online reporting pro bono report that Maryland attorneys complete each year. The webpage invites attorneys, if they so choose, to make a one-time voluntary contribution to a legal services organization. The page offers links to each organization's web page, scrollover text that describes their mission, and a direct link to that organization's online donation page, to aid attorneys who may want to make a financial contribution. Maryland Rule of Professional Conduct 6.1 provides that a lawyer may discharge their professional responsibility to provide *pro bono* representation "by contributing financial support to organizations that provide legal services to persons of limited means."

The Commission does not receive or handle any funds as the online contributions are deposited directly in the providers' online payment accounts. The Commission tracks donations reported through the web page. In the current reporting cycle, attorneys are reminded of the donation they made last year when completing their report, so they can include the amount in reporting their financial contributions. During the 2011 Reporting Cycle, which took place during early 2012, Maryland attorneys used the Donation Page to make approximately \$59,000 in contributions to the state's non-profit civil legal services providers.

Expanding Rights and Market Incentives

Fee-Shifting to Promote the Public Interest in Maryland

The Commission continued to pursue the use of attorneys' fees as a means to promote access to justice by creating market incentives for attorneys to take cases that promote individual rights or that have a larger public impact. In its *Interim Report* in 2009, the Commission recognized the role fee-shifting schemes play in expanding access to legal representation. The Commission noted the large number of fee-shifting statutes in the State, and noted especially the lack of a provision for attorneys' fees in cases involving State constitutional claims. During 2010, the Commission articulated the benefit of fee-shifting schemes in a white paper, *Fee-Shifting to Promote the Public Interest in Maryland*. During 2012, the Commission's white paper was published in the *University of Baltimore Law Forum*.

Finally, the Commission's work on this issue culminated in House Bill 130 / Senate Bill 263. The bill would have permitted courts to compensate prevailing plaintiffs for the cost of representation when asserting state constitutional claims or enforcing important rights affecting the public interest; would have aided judges in calculating fee awards by codifying existing case law on that subject; and would have amended state and local government tort claims acts to permit successful claimants to be

awarded fees in addition to damages. The bill received an unfavorable report from the House Judiciary Committee and was subsequently withdrawn in the Senate. The Commission plans to work with legislators to revise the proposal for future consideration.

Civil Right to Counsel

During the past year, the Commission continued its work to promote a dialogue about civil right to counsel in Maryland and nationwide, building on its 2010 report, *Implementing a Civil Right to Counsel in Maryland*.

The Commission gained a national reputation for its groundbreaking implementation strategy and cost assessment for a civil right to counsel. The Commission's Executive Director helped plan and participated in a nationwide summit on civil right to counsel pilot programs, held in Chicago, IL, in December 2012.

In an effort to engage Maryland legislators in the statewide conversation about a civil right to counsel, the Commission urged the Maryland Judiciary to include in its 2012 legislative package, a bill to create a legislative Task Force on a Civil Right to Counsel. The 2012 bill was not successful. The bill was resubmitted during the current session as House Bill 129 / Senate Bill 262. To date it has received a favorable report from the Senate Judicial Proceedings Committee, and remains pending before the General Assembly.

Reinforcing Efforts that Enhance Access to Justice

The Maryland Access to Justice Awards

The Commission continued its annual awards program in 2012 by presenting awards in five categories to laudable individuals and programs. The awards were presented at the annual Judicial Conference in Annapolis, Maryland, on May 15, 2012. The awards recognize individuals, programs and entities in the State that improve the ability of all Marylanders to access the courts or to get legal help in civil legal matters.

The 2012 honorees were:

- **JUDGE OF THE YEAR AWARD (Joint Honorees)**
Hon. Karen A. Murphy Jensen, Circuit Court for Caroline County
Hon. Joseph F. Murphy, Jr. (ret'd), Maryland Court of Appeals

- **JUDICIAL BRANCH EXCELLENCE AWARD**
Connie Kratovil-Lavelle Executive Director,
Family Administration, Administrative Office of the Courts

- **OUTSTANDING PROGRAM OF THE YEAR AWARD**
District Court Self-Help Center Maryland Legal Aid
[Sarah Frush, Supervising Attorney for the District Court Self-Help Center accepted the award on behalf of Maryland Legal Aid]
- **LEGISLATOR OF THE YEAR AWARD (Joint Honorees)**
Delegate Samuel I. Rosenberg, Maryland House of Delegates
Senator Jamie Raskin, Maryland Senate
- **EXECUTIVE BRANCH AWARD**
Lieutenant Governor Anthony G. Brown

Addressing the Needs of Special Populations

To ensure the Commission remains grounded in the needs of the State’s most vulnerable, the Critical Barriers Committee continued its series of special stakeholder meetings. Each meeting involved invitations to panelists who represent a particular critical population. These meetings have included legal services advocates, private attorneys, interest-based organizations and ordinary citizens. During 2012 the Critical Barriers Committee met with groups representing the needs of immigrants and the foreign-born. The Critical Barriers Committee made a number of recommendations and launched a number of projects as a result of that meeting, and prior stakeholder meetings.

Promoting Accessible Courts and Legal Services

As a direct result of its special meetings with advocates for the disabled, the Commission launched an initiative to improve the accessibility of its own work, and to support courts and legal services providers in being more fully accessible to all.

Accessibility Web Page

The first step in this effort was to create an “accessibility” web page, found at <http://mdcourts.gov/mdatjc/accessibility.html>, that brings together a range of supportive information. The page states the Commission’s own policy on accessibility:

“The Maryland Access to Justice Commission strives to make its work product, website, and events as accessible to persons with disabilities as is practical based on available resources.”

Towards that end the Commission attempts to post all written documents in a screen-readable format, to tag all photos and multimedia material, and when necessary to post text versions of documents or materials that are not otherwise accessible.

Beyond Compliance: Creating a Culture of Inclusivity and Accessibility

Available on the accessibility page is a document published by the Commission in 2012 entitled, *Beyond Compliance: Creating a Culture of Inclusivity and Accessibility Among Maryland State Courts and Legal Service Providers*. In that document, the Commission recommends courts and providers adopt a number of strategies to provide accessible websites and facilities, and to institutionalize proactive practices that support inclusivity.

Accessibility and Documents Posted Online

The Commission published and distributed a technical assistance document, *Accessibility and Documents Posted Online*, addressing how to create accessible PDF and Word documents. This document informs courts and justice partners how they can create documents in newer versions of Microsoft Office and Adobe Acrobat accessible to individuals using screen readers.

Access to the People's Law Library for the Incarcerated

As a result of its investigation into the needs of the incarcerated and those soon to be released, the Commission authorized its staff to print and distribute to correctional and detention facilities binders with the content from the People's Law Library, Maryland's legal content website. The binders provide the incarcerated, including those preparing for reentry, access to useful legal information that they might not otherwise be able to use given that those in correctional and detention facilities generally do not have access to the Internet. The binders were distributed in early 2012 to all correctional, detention and juvenile facilities in the state. Periodic replacement pages will be provided to keep the material up-to-date.

Conclusion

The Commission will continue to work towards the goals it set out for itself in its 2009 *Interim Report*. Some changes take time and extraordinary persistence. The benefits of such persistence, however, are significant. While a number of ongoing initiatives remain pending or have required repeated attempts before they succeed, the work we are doing in committees, before the Legislature, and in the community will have a lasting impact. Together we are maintaining a statewide dialogue about what it means to be a just and civil society. The Commission continues to play an important role as a convener of that dialogue.

APPENDICES

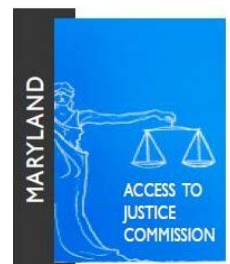
WRITING FOR SELF-REPRESENTED LITIGANTS



11/2012

A guide for Maryland's courts and civil legal services providers

Maryland Access to Justice Commission
2001 F Commerce Park Drive
Annapolis, Maryland 21401
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Writing for Self-Represented Litigants

A GUIDE FOR MARYLAND COURTS AND LEGAL SERVICES PROVIDERS

Many people work to address their legal problems without the help of a lawyer. We call these people “self-represented litigants” or “pro se” parties.

It’s easy to write documents that more self-represented litigants can understand if you follow some basic rules. Documents for the public don’t have to be formal or full of legalese. You can write with the ordinary language that you use every day.

When you give help in person, people can ask you questions if they don’t understand. But written documents can’t respond to questions. Therefore, it’s best to write in a way that’s easy to understand.

If you think about the needs of self-represented litigants as you write a document, your office will run in a more efficient way. When your documents completely answer readers’ questions, staff can help more people with problems that require a personal touch.

How to write for self-represented litigants: the basic rules

1. Write clearly.
2. Check your document with a readability tool.
3. Improve readability with layout.
4. Explain information with a visual aid.
5. Accommodate people’s differences.
6. Tell readers where they can find more help.

1. Write clearly.

Plain language helps readers find and understand information. Readers can then use that information to meet their needs.

Plain language includes:

- Shorter words and sentences
- Personal pronouns (“you,” “we”)
- Active voice
- Commands

Use short, familiar words:

✓	✗
Lawyer	Advocate / Attorney
Follow	Conform
Decision	Judgment
You, the other person, the other side	Party / Plaintiff / Defendant
On time	Timely
But	Whereas

Avoid legalese and Latin words. If simpler terms don’t exist, define the words you’re using (and consider making a glossary). The District Court of Maryland has a glossary of court terms, available online at mdcourts.gov/district/selfhelp/glossary.html.

A plain language legal resource library is available at writeclearly.org, including a legal glossary and sample forms written in plain language.

Be consistent. For example, it may seem like you’re talking about two different groups if you write “senior citizens” first, and “the elderly” later.

a. Use personal pronouns.

Refer to the reader as “you,” and refer to your organization as “we.” Personal pronouns are more direct and easier to understand. Address one person, not a group.

Instead of: “The court requires petitioners to file three copies of all documents to accelerate review of cases.”

Try: “We require three copies of all documents. This speeds up review of your case.”

Begin by defining “you,” if necessary:

“You (the defendant) can respond to the complaint by filing a Notice of Intention to Defend. If you believe you don’t owe the money....”

b. Active voice is easy to understand.

Active verbs are straightforward. Passive verbs can seem stuffy or bureaucratic. Using passive verbs adds at least two extra words.

Active voice = **Subject** + **Verb** + **Object**

✓ **Pedro** completed the **form**.

✓ A **lawyer** represented **Dara**.

Passive voice = **Object** + **Verb** + **Subject**

x The **form** was completed by **Pedro**.

x **Dara** was represented by a **lawyer**.

The *subject* is the actor in the sentence, often a person or thing. The *verb* is the action itself. The *object* receives the actor’s action. The order of these parts decides whether the sentence is active or passive.

There are some cases where you may want to use passive verbs:

- When it’s unclear who or what the actor (the “subject”) is
- To soften the blow of a statement
- To avoid taking or placing blame
- If passive voice makes the sentence easier to understand

c. Commands shorten your sentences.

Readers want instructions, so a direct tone – a command – is appropriate (and easier to read).

~~You can~~ File your complaint with the Clerk's Office.

~~You may~~ Contact an attorney by calling your county's lawyer referral service.

Remove unnecessary words at the beginning of a sentence to create a command. Begin instructions with a verb when possible.

d. Prefer verbs over nouns.

Turning a verb into a noun is called “nominalization.” If you use too many nouns, your sentences will be longer and harder to understand. Examples of nominalization include:

✓ Verb	✗ Noun
Use	Usage
Complete	Completion
Pay	Payment
Decide	Decision

Nouns have their place, but if a sentence seems long, try turning some nouns into verbs. Changing the sentence into a command might switch some nouns into verbs too.

Usage of cell phones in court is prohibited.

→ Do not use cell phones in court.

Upon completion of the form, the Clerk's Office will provide a party with the case file.

→ Complete the form, and we will give you the file.

2. Check your document with a readability tool.

The Flesch-Kincaid Reading Level Test estimates the number of years of schooling a reader would need to understand a document. It uses a formula that looks at word and sentence length. Find this tool in Microsoft Word and in Corel Word Perfect:

- **Microsoft Word:** Within the options for Spell Check, check the box for "Show readability statistics." After you run Spell Check, a box will display readability information.
- **Corel Word Perfect:** In the Grammatik tool, click "Options" > "Analysis" > "Readability."

The ideal Flesch-Kincaid number depends on your audience. A document for the public may reach readers with limited reading skills. Readability experts usually recommend **a reading level of 6 or below**. However, some topics (such as the law) require complex words. If you can write at a grade level of 8 or below, you're off to a great start.

This manual is at a 7.6 reading level (not including the examples that show what to avoid).

3. Improve readability with layout.

Use:

- Bullets
- Numbered “steps”
- White space
- Headings
- Other layout devices to make your document more readable

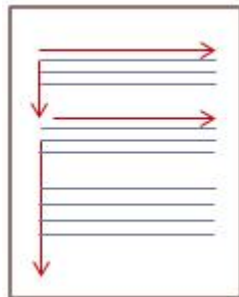
a. Put important information first.

Always put the most important information at the **top** of the paragraph, section, or page.

Place key words further to the **left** when creating titles, headings, and lists. Key words further to the left will snag your reader’s attention during that vertical skim.

Readers visually scan information in an “F” shape. Most will read the top sentences completely, but will likely only skim the rest down the left-hand side.

Eye-tracking studies show that readers skim in an F shape, and often skip over large blocks of text.



b. Headings are helpful.

Use headings – titles for sections within your document – so people can find what they need. Make your headings specific and useful. Sometimes, a question and answer format is most helpful.

For longer documents, provide detailed tables of contents.

Be consistent when designing related forms or guides. This way, the reader knows what to expect where.

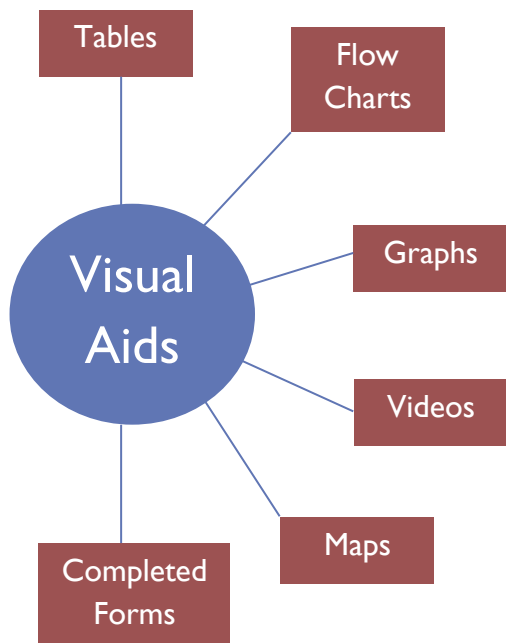
c. Add more white space.

Use white space to keep your document from looking intimidating and cluttered. Documents with more white space are easier to read and keep readers' focus. Here are some ways you can increase white space:

- Add “blank” areas.
- Limit paragraphs to one idea.
- Break up ideas into shorter sentences (but vary sentence length to keep the tone interesting).
- Use fewer words to get to the point quicker.

d. Turn information into lists and numbered steps.

Use lists and numbered steps when presenting information that has several parts or is chronological. Even if the information isn't too complicated, a list adds white space and helps with understanding.



4. Use visual aids.

Simplify complex or detailed information with a table, chart, or other visual aid. For example:

- Explain the differences between a criminal and a civil proceeding in a table.
- Show the steps of a final protective order in a flowchart.
- Display statistics in a graph.
- Provide completed sample forms in addition to blank forms.

For emphasis, use ***bold and italics*** (sparingly). These formats are easier to read than ALL CAPS and underlines.

5. Accommodate people's differences.

More people will be able to read your document if you take certain steps:

- Provide information and forms in a variety of languages used in the community.
- Create printed documents with fonts no smaller than 12 point, or provide large-typeface versions for people who are visually impaired.
- Look at colored charts, maps, and other visual aids through a colorblindness tool to make sure that all items are visible and that no meaning is lost. Try vischeck.com.
- Place public materials at heights accessible to people with limited reach.
- For documents posted online, create accessible Word documents and PDFs. For instructions, visit mdcourts.gov/mdatjc/accessibility.html.

For more examples of how you can accommodate people's differences, see the Maryland Access to Justice Commission's document, *Beyond Compliance: Creating a Culture of Inclusivity and Accessibility*, available online at mdcourts.gov/mdatjc/accessibility.html.

6. Tell readers where they can find more help.

Maryland has many resources and legal services providers that can help people without lawyers. Provide a list of relevant resources on your documents and website, such as this one:

For basic information about Maryland law:

People’s Law Library of Maryland: peoples-law.org

Self-help centers and hotlines:

District Court Self-Help Center: mdcourts.gov/district/selfhelpcenter/home.html or (410) 260-1392

Circuit Court Family Law Self-Help Centers: mdcourts.gov/family/selfhelp.html

Family Law Hotline: (800) 845-8550

Legal Forms Helpline: (800) 818-9888

Free and lower-cost legal services for eligible people who need a lawyer*:

Maryland Office of the Public Defender (for defendants in a criminal case): (877) 430-5187 or opd.state.md.us

Maryland Legal Aid: (800) 999-8904 or mdlalab.org

Maryland Volunteer Lawyers Service: (800) 510-0050 or mvlslaw.org

*Maryland has over 35 legal services providers. A full list is available at peoples-law.org/directory

More Examples

The following examples show some of our writing tips in action. The examples are all from plainlanguage.gov. This website has many more “before and afters” that you may find useful. Also, visit selfhelpsupport.org for information and resources about self-representation.

Active Voice

Before

For local PC printing, it is recommended that you use a high-resolution laser or wax-transfer type printer for color reproductions, and that the printer have at least 1 MB of memory.

After

To print color copies locally, use a high-resolution laser or wax-transfer printer that has at least 1MB of memory.

Personal Pronouns

Before

The application must be completed by the applicant and received by the financial office by June 1st.

After

We must receive your application by June 1st.

Common Words

Before

If stuffing a turkey, use a meat thermometer. Cooking a home-stuffed turkey can be somewhat riskier than cooking one not stuffed. Bacteria can survive in stuffing which has not reached the safe temperature of 165 F, possibly resulting in a foodborne illness. Even if the turkey itself has reached the proper internal temperature of 180 F in the innermost part of the thigh, the stuffing may not have reached a temperature in all parts of the stuffing sufficient to destroy foodborne bacteria. If stuffing does not reach 165 F when the turkey itself is done to 180 F, further cooking will be required. During the added cooking necessary to bring the stuffing up to a safe temperature, the meat may become overcooked.

After

Be sure to cook both your turkey and your stuffing completely. If you don't, bacteria that can make you sick may still be alive. Remember:

Cook the stuffing separately – it's **much** safer. If you absolutely must cook the stuffing in the turkey, use a thermometer to make sure the stuffing reaches a temperature of 165 F and the turkey reaches a temperature of 180 F in the innermost part of the thigh. Measure the temperature of both the turkey and stuffing. Don't just trust a pop-up indicator.

Visual Aids

Before

FACA applies to groups that provide advice to the federal government, but only if the group is convened by a federal agency and includes one or more participants that are not federal, state, or local officials, unless the individuals on the group are expected to provide only their individual opinions, and consensus is not expected of the group. A non-governmental participant may provide information to the group and participate in discussion without triggering FACA, but if he/she also participates in the group decision-making process, FACA would apply.

After

When Does FACA Apply?

If the convenor of the group is . . .	And if the group . . .	And if . . .	But . . .	Then FACA . . .
NOT a federal agency				doesn't apply
a federal agency	is comprised ONLY of officials from federal, state, or local governments			doesn't apply
a federal agency	includes a participant that isn't a government official	the convenor doesn't expect the group to achieve consensus (that is, each member provides his or her own expert opinion)		doesn't apply
a federal agency	includes a participant that isn't a government official	the convenor expects the group to achieve consensus		applies
a federal agency	includes a participant that isn't a government official	the non-governmental participant provides information and participates in discussion	doesn't participate in decision-making	doesn't apply
a federal agency	includes a participant that isn't a government official	the non-governmental participant provides information and participates in discussion	also participates in decision-making	applies

Lists

Before

Each map must be based on assumptions regarding numbers of aircraft, aircraft types and mix, nighttime operations, airport layout, runway use, flight tracks, operational data, and compatible uses.

After

Base each map on assumptions regarding:

- | | |
|---------------------------|-------------------------|
| 1. Numbers of aircraft | 5. Runway use |
| 2. Aircraft types and mix | 6. Flight tracks |
| 3. Nighttime operations | 7. Operational data |
| 4. Airport layout | 8. Compatible land uses |

Short Sentences

Before

We must receive your completed application form on or before the 15th day of the second month following the month you are reporting if you do not submit your application electronically or the 25th day of the second month following the month you are reporting if you submit your application electronically.

After

If you submit your form . . .	We must receive it by . . .
Electronically	the 25th of the second month
Not electronically	the 15th of the second month

This brochure will help you understand how to access state court records in Maryland. It will also tell you when the court can limit or deny public access to records.

What are court records?

Court records include:

- Documents
- Information
- Exhibits
- Other things that a court maintains in connection with a case
- Information found online on Maryland Case Search

What records can the public see?

All court records are open to the public, except as restricted by law. However, some records are not open to the public without a court order or a provision of law that specifically permits access. This includes records about:

- Adoption;
- Guardianship terminating parental rights;
- Juvenile delinquency;
- Child in need of assistance cases (CINA);
- Certain marriage license information;
- Emergency mental health evaluations;
- Income tax returns; and
- Financial statements filed in a case about spousal or child support.

The public should not be able to see:

- Who reported abuse of a vulnerable adult;
- The location and contact information of government employees;
- More than the last four (4) numbers of a social security or federal identification number; or
- Who requests and receives a copy of a sex offender list or sexual predator registration statement.

By request, the court may restrict the public's access to a specific case or specific information in that case. For more information on how to make this request, see the brochures:

- *Can I Keep the Public from Seeing Information about Me in a Court Case?*
- *Can I Keep the Public from Seeing Information about Me in a Peace or Protective Order Case? (for Respondents)*
- *Expungement of Criminal Records*

What can the public see about me in court records and on Maryland Case Search?

What can the public see about me in court records and on Maryland Case Search?

What information is available online on Case Search?

Maryland Case Search provides public access to some case records. The Maryland Judiciary maintains this website. Anyone can search for these records at:

www.mdcourts.gov/casesearch

Case Search is not the official court record. It does not have all of the information that is in the court file.

Case Search should not include certain personal information about victims or non-party witnesses in:

- criminal cases;
- domestic violence cases; and
- peace order cases.

However, personal information may still be available online if the person has another role in the case (separate from being a victim or non-party witness), unless the court grants that person's request to limit public access to court records.

If you find information on Case Search that you believe is inaccurate or should not be open to the public, please notify in writing the court where the original record was created or filed. You can submit your written request to the Clerk's Office by mail or in person.

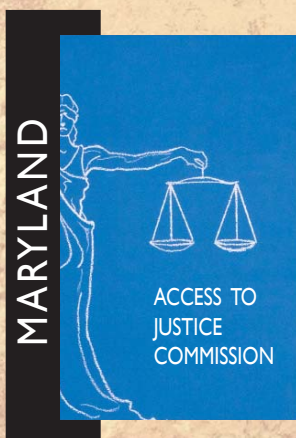
See the brochures:

- *Can I Keep the Public from Seeing Information about Me in a Court Case?*
- *Can I Keep the Public from Seeing Information about Me in a Peace or Protective Order Case? (for Respondents)*
- *Expungement of Criminal Records*

Who notifies the court if the record contains information that should not be public?

The person who files the court record must notify the court if the record contains something that should not be open to the public. The notification must be in writing and identify the specific information. The court will determine whether the information is subject to public inspection.

If you find out that something in the court record should not be open to public inspection, notify the court in writing, and specify which information. If the court does not limit public access, you may file a motion and a judge will make the determination. See the brochures listed above.



www.mdcourts.gov/mdatjc
410.260.1258

For more information

Court forms are available on the Maryland Judiciary's website at www.mdcourts.gov/courtforms.

Read Maryland's laws at www.mdcourts.gov/lawlib/researchtools/sourcesmdlaw.html.

Visit the People's Law Library of Maryland, an online legal resource, at www.peoples-law.org.

Visit any public law library in person. Call 410.260.1430 or find out more online at www.mdcourts.gov/lawlib.

Visit or call the Clerk's Office of the court that heard your case.

Just as courtrooms are open to the public, the public has a right to find out information about court cases. However, in some situations, you can request that the public not see information about you in a case.

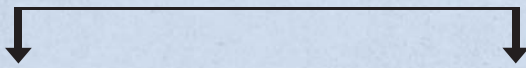
If you're the respondent in a peace or protective order case (you are the respondent if a peace or protective order was filed against you), see the brochure *Can I Keep the Public from Seeing Information about Me in a Peace or Protective Order Case?* If you're a criminal defendant, see the brochure *Expungement of Criminal Records*.

If:

you are a **victim** or **witness** in a criminal case and want to limit public access to information such as your **name**, **address**, or **telephone number**, you can file a **request**.



1. Complete a **request** to limit the public's access to information in a criminal case (form CC-DC 52). Explain exactly what information you do not want the public to see and why.
2. **File your request** with the clerk's office of the District or Circuit Court in which the case was heard.



If the court **grants** your request, the public will not be able to see that information about you. That's it!

However, if the court **denies** your request, you can file a **motion** to limit the public's access to the information (see other side).

If:

you are a **party** (the plaintiff or defendant) in a civil case;

OR

you are the **subject of a civil case**;

OR

you are **specifically identified** in a civil case;

and want to limit public access information in the case, you can file a **motion** (see other side).

Can I keep the public from seeing information about me in a court case?

Can I keep the public from seeing information about me in a court case?

What's the difference between a request and a motion?

Usually . . .

A request:

1. can be granted by a clerk or commissioner; and
2. requires no hearing.

A respondent in a peace or protective order case may not use this simpler process. Respondents in peace and protective order cases must use certain forms, must always give notice to all affected parties and persons, and attend a hearing before a judge. See the brochure *Can I Keep the Public from Seeing Information about Me in a Peace or Protective Order Case?*

A motion:

1. is always decided by a judge;
2. requires notice to all affected parties and persons; and
3. requires a hearing.

Filing a motion to limit the public's access to a case record

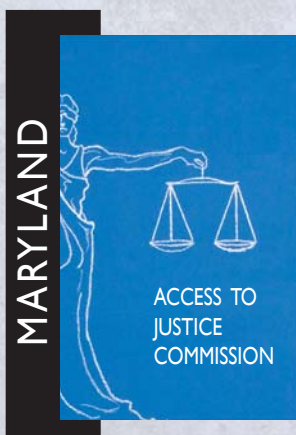
If a judge grants your motion, he or she will order that the clerk's office remove the case record from public view. The clerk's office places the entire record or document in an envelope. The public cannot open the envelope without a judge's signature. To file a motion to limit the public's access to a case record:

1. Complete a motion to limit inspection of a case record (form CC-DC 53). You must prove that a special or compelling reason exists to prevent or limit the public from seeing the information.
2. File the motion by mail or in person with the District or Circuit Court that heard the case.
3. Notify all parties and others named in the case by sending them all the documents you filed with the court. This gives the other parties a chance to respond to your motion.
4. A judge will review the motion and any responses. The public will not be able to see the information while the judge is reviewing your motion. One of three things will then happen:

If the judge determines that the motion requires more consideration, the court will schedule a **hearing date**.

If the judge determines that he or she cannot grant the motion legally, then he or she will **deny** the motion.

If the judge **grants** the motion, the court will prevent or limit the public from seeing the information.



www.mdcourts.gov/mdatjc
410.260.1258

For more information

To find out more, see MD. RULE 16-1009.

For information about what information a Respondent can request the public have limited access to in a peace or protective order case, see MD. CODE, COURTS & JUDICIAL PROCEEDINGS § 3-1510; MD. CODE, FAMILY LAW § 4-512.

Court forms are available online at the Maryland Judiciary's website at www.mdcourts.gov/courtforms.

Read Maryland's laws at www.mdcourts.gov/lawlib/researchtools/sourcesmdlaw.html.

Visit the People's Law Library of Maryland, an online legal resource, at www.peoples-law.org.

Visit any public law library in person. Call 410.260.1430 or find out more online at www.mdcourts.gov/lawlib.

Visit or call the Clerk's Office of the court that heard your case.

Just as courtrooms are open to the public, the public has a right to find out information about court cases. However, in some situations, you can request that the public not see information about a peace or protective order filed against you.

Peace and protective orders are civil orders that a judge issues to order one person not to act in certain ways toward someone else.

The petitioner files the peace or protective order case against the respondent.

This brochure is for respondents.

Who am I in this case?

RESPONDENT

The person against whom the peace or protective order case was filed.



Under certain circumstances, the court may grant a respondent's request to limit public access to information about the case.



or

PETITIONER

The person who filed for the peace or protective order.



A petitioner may ask the court to limit public access to certain information at any time.

See the brochure, *Can I Keep the Public from Seeing Information about Me in a Court Case?*

Can I request that the court limit public access to the case record?

Yes, if all four (4) of these statements apply to you (the respondent):

The peace or protective order against you was **denied or dismissed**.

+

No other final peace or protective order has been **previously issued** against you in a case involving this petitioner.

+

There is no other peace or protective order case **pending** between you and this petitioner.

+

There is no **criminal charge** pending against you relating to this petitioner.

for Respondents

Can I keep the public from seeing information about me in a peace or protective order case?

Can I keep the public from seeing information about me in a peace or protective order case?

When can I ask that the court limit public access to the case record?

When three (3) years have passed from the time the court denied or dismissed the peace or protective order

or

Sooner than three (3) years if you also file a General Waiver and Release (form CC-DC 77). Consider speaking to a lawyer before waiving any legal rights you may have.

How do I ask the court to limit public access to the case record?

Follow these steps:

1. **Complete the correct form.** Attach the General Waiver and Release (form CC-DC 77) if necessary.
 - For a **peace order** case — use form CC-DC PO-16 to ask the court to limit public access to a record.
 - For a **protective order** case — use form CC-DC DV-21 to ask the court to limit public access to a record.
2. **File the form** (and the waiver/release, if necessary) by mail or in person with the District or Circuit Court that heard your protective or peace order case.
3. **Send a copy** of the form and everything you filed with the court to the petitioner and any other parties involved in the case. If the Petitioner's address is confidential, file a "Motion for Appropriate Relief" asking the court to send your request to the Petitioner.
 - For a protective order case, use form CC DC/DV 25.
 - For a peace order case, use form CC DC/PO 19.
4. The court will hold a **hearing** and will consider any objection the petitioner may have. If the court decides the petitioner's objection is valid, it may not limit public access to the case record.
5. If the court decides you are legally eligible, the court will limit public access to the information about you in this civil case.

If the court does not limit public access to the case record, you may file an appeal.

If you were a defendant in a **criminal case** about this same incident, see the brochure *Expungement of Criminal Records*. Through expungement, you may be able to limit further what the public can see about you in court records.

For more information

To find out more, see MD. CODE, COURTS & JUDICIAL PROCEEDINGS § 3-1510; MD. CODE, FAMILY LAW § 4-512; and MD. RULE 16-1009.

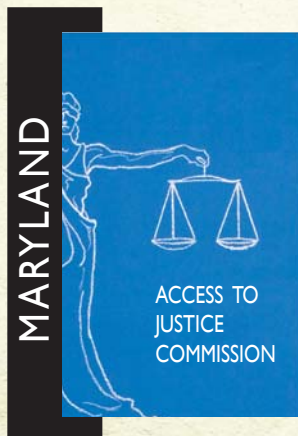
Court forms are available on the Maryland Judiciary's website at www.mdcourts.gov/courtforms.

Read Maryland's laws at www.mdcourts.gov/lawlib/researchtools/sourcesmdlaw.html.

Visit the People's Law Library of Maryland, an online legal resource, at www.peoples-law.org.

Visit any public law library in person. Call 410.260.1430 or find out more online at www.mdcourts.gov/lawlib.

Visit or call the Clerk's Office of the court that heard your case.



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Expungement completely removes a criminal record from public view. Expunged information will not show up in background checks. You are not legally required to tell employers about an expunged record. This brochure is about expunging criminal records about you from Maryland state court records only.

Who uses expungement?

Defendants in state *criminal* cases.

If you are the *respondent* in a *peace or protective order case*, your case is *civil*, not criminal. See the brochure: *Can I Keep the Public from Seeing Information about Me in a Peace or Protective Order Case?* If the state brought a criminal case against you for the same incident, you might have both a civil and criminal case.

If you want to limit public access in your civil case, or if you are a victim or witness in a criminal case, see the brochure: *Can I Keep the Public from Seeing Information about Me in a Court Case?* (including if you are the *petitioner* in a peace or protective order case).

In many instances, you cannot file for expungement if you are *now* a defendant in any criminal action that has a possible sentence of jail time. In some instances, you cannot file for expungement if you were convicted of another crime after the crime for which you are seeking expungement.

How do I file for expungement?

For Maryland state court records, you can file a "Petition for Expungement of Records" (form CC-DC/CR-72) and if necessary, a "General Waiver and Release" (form CC-DC/CR-78). File the form with the Clerk's Office of the court that heard your case, in person or by mail.

Apply for expungement of each offense based on the date of arrest, the date on which the police served you with a citation, or the date on which you were served with a summons.

There is no way to expunge all of your criminal records at once. Your criminal records can also be expunged from Motor Vehicle Administration files and police files. Each process removes very specific files. Contact each agency that has criminal records about you to find out their expungement procedures.

Expungement of Criminal Records

I am the defendant in a criminal case, can I file for expungement?

Yes, if:

Maryland's Governor ***pardoned*** you;

or

The case was filed against you as a ***juvenile***, initially in criminal court and then was later transferred to juvenile court; *

or

You can show ***good cause***.

Yes, if three (3) years have passed and:

You received ***probation before judgment*** (except DUI/DWI)

or

The court ***indefinitely postponed*** your case ("stet");

or

The crime you were convicted of is listed in MD. CODE, CRIMINAL PROCEDURE § 10-105(a)(9).

Yes, if three (3) years have passed OR you file a "General Waiver and Release" [form CC-DC/CR-78] † and:

You were found ***not guilty*** ("acquitted");

or

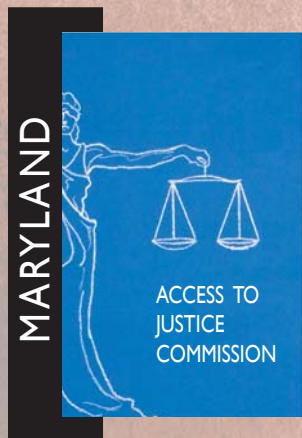
The state ***did not prosecute*** the charge against you ("nolle prosequi").

* Juvenile delinquency records are always confidential. Juvenile records are maintained in a separate system from adult criminal records. File your petition for expungement with the clerk in the Juvenile court that heard your case.

† Filing this form waives certain legal rights you may have. You may want to speak to a lawyer before doing so.

Must I tell anyone about information that the court expunged?

Under MD. CODE, CRIMINAL PROCEDURE § 10-109, an employer or educational institution may not require, as a condition of employment or admission, that you disclose expunged information about yourself. This includes the state government. The state also may not require you to disclose expunged information when you apply for a state license, permit, or other registration.



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For more information

Expungement can be complicated. See the Maryland Judiciary's Expungement brochure online at www.mdcourts.gov/expungement.

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Read Maryland's laws at www.mdcourts.gov/lawlib/researchtools/sourcesmdlaw.html.

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Visit or call the Clerk's Office of the court that heard your case.

Este folleto le ayudará a entender cómo tener acceso a los expedientes judiciales estatales de Maryland. También le informará cuándo el tribunal puede limitar o denegar el acceso público a los expedientes.

¿Qué expedientes puede ver el público?

Todos los expedientes judiciales están abiertos al público, salvo las limitaciones dispuestas por ley. Sin embargo, algunos expedientes no están abiertos al público sin una orden judicial o disposición legal que permita específicamente el acceso. Ello incluye expedientes sobre:

- Adopción;
- Custodia que da fin a los derechos de patria potestad;
- Delincuencia juvenil;
- Casos relacionados con un menor que necesita de asistencia (CINA);
- Cierta información de las licencias de matrimonio;
- Evaluaciones de salud mental de emergencia;
- Declaraciones del impuesto a la renta; y
- Estados financieros presentados en un caso sobre pensión alimenticia del cónyuge o manutención de menores.

¿Qué son los expedientes judiciales?

Los expedientes judiciales incluyen:

- Documentos
- Información
- Elementos de prueba
- Otras cosas que el tribunal mantiene en relación con un caso
- Información que se encuentra en línea en la Búsqueda de Casos de Maryland (Maryland Case Search)

El público no debería poder ver:

- Quién reportó el maltrato de un adulto vulnerable;
- La localidad e información de contacto de empleados gubernamentales;
- Más de los últimos cuatro (4) números de un número de seguro social o identificación federal; o
- Quién solicita y recibe una copia de una lista de delincuentes sexuales o registro de depredadores sexuales.

A pedido, el tribunal puede restringir el acceso público a un caso específico o información específica en esa causa. Para más información sobre cómo hacer ese pedido, consulte los folletos:

- *¿Puedo evitar que el público vea información sobre mi persona en un caso judicial?*
[Can I Keep the Public from Seeing Information about Me in a Court Case?]
- *¿Puedo evitar que el público vea información sobre mi persona en un caso de orden de paz o de protección? (para Demandados)*
[Can I Keep the Public from Seeing Information about Me in a Peace or Protective Order Case? (for Respondents)]
- *Eliminación de antecedentes penales*
[Expungement of Criminal Records]

¿Qué puede ver el público sobre mi persona en los expedientes judiciales y en la Búsqueda de Casos de Maryland [Maryland Case Search]?

¿Qué puede ver el público sobre mi persona en los expedientes judiciales y en la Búsqueda de Casos de Maryland [Maryland Case Search] ?

¿Qué información hay en línea en la Búsqueda de Casos?

La Búsqueda de Casos de Maryland ofrece acceso público a algunos expedientes judiciales. El Poder Judicial de Maryland mantiene este sitio web. Cualquiera puede hacer una búsqueda de esos expedientes en:

www.mdcourts.gov/casesearch

La Búsqueda de Casos no es el expediente judicial oficial. No tiene toda la información contenida en el expediente judicial.

El resultado de la búsqueda no debe incluir cierta información personal sobre las víctimas o testigos que no son parte del caso en:

- casos penales;
- casos de violencia doméstica; y
- casos de órdenes de paz.

Sin embargo, es posible que la información personal todavía esté disponible en línea si la persona tiene otro rol en el caso (aparte de ser la víctima o un testigo que no es una de las partes), a menos que el tribunal otorgue la solicitud de la persona de limitar el acceso público a los expedientes judiciales.

Si encuentra información en Búsqueda de Casos que, en su opinión, no es exacta o no debiera estar abierta al público, sírvase notificar por escrito al tribunal en el que se creó o presentó el expediente original. Usted puede presentar su solicitud escrita ante la Oficina del Secretario por correo o en persona.

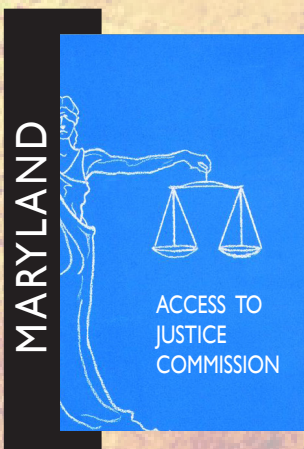
Consulte los folletos:

- “¿Puedo evitar que el público vea información sobre mi persona en un caso judicial?” [Can I Keep the Public from Seeing Information about Me in a Court Case?]
- “¿Puedo evitar que el público vea información sobre mi persona en un caso de orden de paz o de protección? (para Demandados)” [Can I Keep the Public from Seeing Information about Me in a Peace or Protective Order Case? (for Respondents)]
- “Eliminación de antecedentes penales” [Expungement of Criminal Records]

¿Quién notifica al tribunal si el expediente contiene información que no debería ser pública?

La persona que presenta el expediente judicial debe notificar al tribunal si el expediente contiene algo que no debería estar abierto al público. La notificación debe realizarse por escrito e identificar la información específica. El tribunal debe determinar si la información está sujeta a inspección pública.

Si descubre que algo del expediente judicial no debe estar abierto para inspección pública, notifique al tribunal por escrito y especifique qué información. Si el tribunal no limita el acceso público, usted puede presentar una petición y un juez hará la determinación. Consultar los folletos indicados arriba.



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Para más información:

Los formularios judiciales se encuentran en el sitio web del Poder Judicial de Maryland en www.mdcourts.gov/courtforms.

Lea las leyes de Maryland en www.mdcourts.gov/lawlib/researchtools/sourcesmdlaw.html.

Visite la Biblioteca Legal del Pueblo de Maryland, un recurso en línea, en www.peoples-law.org.

Visite personalmente cualquier biblioteca pública especializada en leyes. Llame al 410.260.1430 o averigüe más información en www.mdcourts.gov/lawlib.

Visite o llame a la Oficina del Secretario del tribunal que trató su caso.

Así como las salas de tribunales están abiertas al público, el público tiene derecho a averiguar información sobre los casos judiciales. Sin embargo, en algunas situaciones, usted puede pedir que el público no vea información sobre usted en un caso.

Si usted es el demandado en un caso de orden de paz o de protección (usted es el demandado si se presentó una orden de paz o de protección contra usted), consulte el folleto “¿Puedo evitar que el público vea información sobre mi persona en un caso de orden de paz o de protección?” Si usted es un acusado penal, consulte el folleto “Eliminación de antecedentes penales”.

Si:

usted es una **víctima** o **testigo** en un caso penal y desea limitar el acceso del público a información como su **nombre**, **dirección** o **teléfono**, puede presentar una **solicitud**.



1. Complete la **solicitud** para limitar el acceso del público a información contenida en un caso penal (formulario CC-DC 52). Explique exactamente qué información no desea que el público vea y por qué.
2. **Presente su solicitud** en la oficina del secretario del Tribunal de Distrito o Circuito en el que se trató el caso.



Si el tribunal **otorga** su solicitud, el público no podrá ver esa información sobre usted. ¡Eso es todo!

Sin embargo, si el tribunal **deniega** su solicitud, usted puede presentar una **petición** para limitar el acceso del público a la información (ver al dorso).

Si:

usted es una **parte** (demandante o demandado) en un caso civil;

O

usted es **objeto de un caso civil**;

O

se le **identifica específicamente** en un caso civil;

y desea limitar el acceso del público a la información contenida en el caso, puede presentar una **petición** (ver al dorso).

¿Puedo evitar que el público vea información sobre mi persona en un caso judicial?

¿Puedo evitar que el público vea información sobre mi persona en un caso judicial?

¿Cuál es la diferencia entre una solicitud y una petición?

Por lo general . . .

Una solicitud:

1. puede ser otorgada por un secretario o comisionado; y
2. no necesita audiencia.

El demandado en un caso de orden de paz o de protección no puede usar este proceso más sencillo. Los demandados en casos de órdenes de paz o de protección deben usar ciertos formularios, deben siempre dar aviso a todas las partes y personas afectadas y deben asistir a una audiencia frente a un juez. Consulte el folleto “¿Puedo evitar que el público vea información sobre mi persona en un caso de orden de paz o de protección?” (*Can I Keep the Public from Seeing Information about Me in a Peace or Protective Order Case?*)

Una petición:

1. siempre es decidida por un juez;
2. exige aviso a todas las partes y personas afectadas; y
3. necesita una audiencia.

Presentación de una petición para limitar el acceso del público al expediente de un caso

Si un juez le otorga una petición, ordenará que la oficina del secretario retire el expediente del caso de la vista del público. La oficina del secretario coloca la totalidad del expediente o documento en un sobre. El público no puede abrir el sobre sin la firma del juez. Para presentar una petición a fin de limitar el acceso del público al expediente de un caso:

1. Llene la petición para limitar la inspección del expediente de un caso (formulario CC-DC 53). Usted debe demostrar que existe una razón especial o imperiosa para limitar o evitar que el público vea la información.
2. Presente la petición por correo o en persona ante el Tribunal de Distrito o de Circuito que trató el caso.
3. Avise a todas las partes y a otras personas nombradas en el caso enviándoles todos los documentos que usted presentó ante el tribunal. Esto le da la oportunidad a las otras partes de responder a su petición.
4. Un juez analizará la petición y las contestaciones. El público no podrá ver la información mientras el juez esté analizando su petición. Luego sucederán una de estas tres cosas:

Si el juez determina que la petición requiere mayor consideración, se concertará una **fecha para una audiencia**.

Si el juez determina que no puede otorgar legalmente la petición, entonces la **denegará**.

Si el juez **otorga** la petición, entonces el tribunal limitará o evitará que el público vea la información.

Para más información:

Para averiguar más información, consulte la Regla de MD. 16-1009.

Para más detalles sobre qué información puede el Demandado solicitar que el público tenga acceso limitado en un caso de orden de paz o de protección, consulte el CÓDIGO DE MD., TRIBUNALES Y PROCEDIMIENTOS JUDICIALES SECCIÓN 3-1510 [MD. CODE, COURTS & JUDICIAL PROCEEDINGS § 3-1510]; y CÓDIGO DE MD., DERECHO DE FAMILIA SECCIÓN 4-512 [MD. CODE, FAMILY LAW § 4-512].

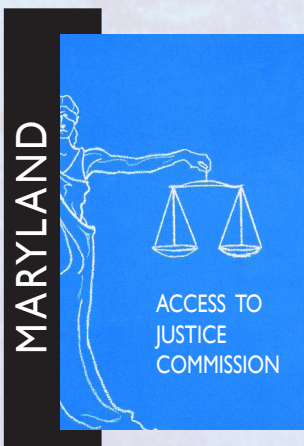
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Así como las salas de tribunales están abiertas al público, el público tiene derecho a averiguar información sobre los casos judiciales. Sin embargo, en algunas situaciones, usted puede solicitar que el público no vea la información sobre una orden de paz o de protección presentada en su contra.

Las órdenes de paz y de protección son órdenes civiles emitidas por un juez para ordenarle a una persona que no actúe de cierto modo hacia otra.

El solicitante entabla el caso de la orden de paz o de protección en contra del demandado.

Este folleto es para los demandados.

¿Quién soy en este caso?

DEMANDADO
La persona contra la cual se entabló el caso de la orden de paz o de protección.



Bajo ciertas circunstancias, el juez puede conceder la solicitud del demandado de limitar el acceso público a la información sobre el caso.



o

SOLICITANTE
La persona que entabla el caso para pedir una orden de paz o de protección.



El solicitante puede pedirle al juez que limite el acceso público a cierta información, en cualquier momento.

Consulte el folleto "*¿Puedo evitar que el público vea información sobre mi persona en un caso judicial?*"

[*Can I Keep the Public from Seeing Information about Me in a Court Case?*]

¿Puedo solicitar que el juez limite el acceso público al expediente del caso?

Sí, siempre que los cuatro (4) enunciados siguientes se le apliquen a usted (el demandado):

La orden de paz o de protección en su contra se **denegó o desestimó**.

+

No se **ha emitido previamente** una orden definitiva de paz o de protección en su contra, en un caso en el que intervino este solicitante.

+

No hay ningún otro caso de orden de paz o de protección **pendiente** entre usted y este solicitante.

+

No hay un **cargo penal** pendiente en su contra, relacionado con este solicitante.

para los Demandados

¿Puedo evitar que el público vea información sobre mi persona en un caso de orden de paz o de protección?

¿Puedo evitar que el público vea información sobre mi persona en un caso de orden de paz o de protección?

¿Cuándo puedo solicitar que el juez limite el acceso público al expediente del caso?

Cuando hayan transcurrido tres (3) años desde la fecha en que el juez denegó o desestimó la orden de paz o de protección

o

Antes de los tres (3) años si usted también presentó una Exención General y Liberación (formulario CC-DC 77). Piense en consultar a un abogado antes de renunciar a los derechos legales que quizás tenga.

¿Cómo le solicito al juez que limite el acceso público al expediente del caso?

Siga estos pasos:

1. **Llene el formulario correcto.** Adjunte una Exención General y Liberación (formulario CC-DC 77) si fuera necesario.
 - Para un caso de **orden de paz** – use el formulario CC-DC PO-16 para pedir al juez que limite el acceso público a un expediente.
 - Para un caso de **orden de protección** – use el formulario CC-DC DV-21 para pedir al juez que limite el acceso público a un expediente.
2. **Presente el formulario** (y la exención/liberación, si fuera necesario) por correo o en persona ante el Tribunal de Distrito o de Circuito que trató su caso de orden de protección o de paz.
3. **Envíe** al solicitante y a las otras personas del caso **una copia** del formulario y de todo lo que presente ante el tribunal. Si el domicilio del Solicitante es confidencial, presente una “Petición para Recibir Reparación Apropiable” para solicitar al juez que envíe su pedido al Solicitante.
 - Para un caso de orden de protección, use el formulario CC DC/DV 25.
 - Para un caso de orden de paz, use el formulario CC DC/PO 19.
4. El juez celebrará una **audiencia** y considerará las objeciones que tenga el solicitante. Si el juez decide que la objeción del solicitante es válida, es posible que no limite el acceso público al expediente del caso.
5. Si el juez decide que a usted le corresponde legalmente, se limitará el acceso público a la información sobre su persona en este caso civil.

Si el juez no limita el acceso público al expediente del caso, usted puede presentar un recurso de apelación.

Si usted fue un demandado en un **caso penal** sobre este mismo incidente, consulte el folleto *Eliminación de Antecedentes Penales*. A través de la eliminación de antecedentes, usted podrá limitar más lo que el público puede ver acerca de usted en los expedientes judiciales.

Para más información:

Para averiguar más información, consulte el CÓDIGO DE MD., TRIBUNALES Y PROCEDIMIENTOS JUDICIALES SECCIÓN 3-1510 [MD. CODE, COURTS & JUDICIAL PROCEEDINGS § 3-1510]; CÓDIGO DE MD., DERECHO DE FAMILIA SECCIÓN 4-512 [MD. CODE, FAMILY LAW § 4-512]; Y REGLA DE MD. 16-1009 [MD. RULE 16-1009].

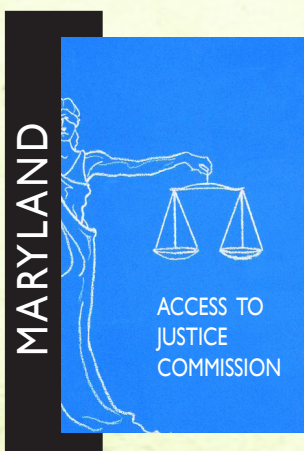
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La eliminación de antecedentes penales retira por completo todo expediente penal de la vista del público. La información suprimida no aparecerá en las verificaciones de antecedentes penales. Usted no tiene la obligación legal de informar a los empleadores sobre sus antecedentes penales eliminados. Este folleto explica cómo eliminar los antecedentes penales sobre su persona únicamente de los expedientes de los tribunales estatales de Maryland.

¿Quién usa la eliminación de antecedentes?

Los acusados en casos **penales** estatales.

Si usted es el **demandado** en un **caso de orden de paz o de protección**, su caso es **civil** y no penal. Consulte el folleto: “¿Puedo evitar que el público vea información sobre mi persona en un caso de orden de paz o de protección?” Si el estado entabló un caso penal en contra de usted por el mismo incidente, posiblemente tenga un caso civil y un caso penal.

Si desea limitar el acceso público a su caso civil, o si es una víctima o testigo en un caso penal, consulte el folleto: “¿Puedo evitar que el público vea información sobre mi persona en un caso judicial?” (incluido si usted es el **solicitante** en un caso de orden de paz o de protección).

En muchos casos, usted no podrá presentar una eliminación de antecedentes si es **ahora** un acusado en un caso penal con una posible sentencia de condena en prisión. En algunos casos, usted no podrá presentar una eliminación de antecedentes si se le encontró culpable de otro delito después del delito sobre el cual solicita la eliminación de antecedentes.

¿Cómo presento la eliminación de antecedentes penales?

Para suprimir antecedentes de los expedientes de los tribunales estatales de Maryland, puede presentar una “Solicitud para Eliminación de Antecedentes Penales” (formulario CC-DC/CR-72) y, de ser necesario, una “Exención General y Liberación” (formulario CC-DC/CR-78). Preséntela ante la Oficina del Secretario del tribunal que trató su caso, en persona o por correo.

Solicite la eliminación de cada delito en base a la fecha de arresto, la fecha en que la policía le entregó una multa o boleta o la fecha en que se le entregó una citación judicial.

No hay forma de eliminar todos sus antecedentes penales de una sola vez.

También es posible eliminar sus antecedentes penales de los expedientes de la Administración de Vehículos Motorizados y los expedientes policiales. Cada proceso suprime expedientes muy específicos. Comuníquese con cada agencia que tenga antecedentes penales sobre usted para averiguar cuál es su procedimiento de eliminación de antecedentes.

Eliminación de antecedentes penales

Soy el acusado en un caso penal.

¿Puedo presentar la eliminación de antecedentes penales?

Sí, en estos casos:

El Gobernador de Maryland lo **indultó**;

○

El caso se entabló contra usted como **menor**, inicialmente en el tribunal penal y luego se transfirió al tribunal de menores; *

○

Usted puede demostrar **motivos justificantes**.

Sí, si transcurrieron tres (3) años y:

Se le dio **libertad condicional antes del fallo** (salvo casos de DUI (conducir bajo la influencia)/DWI (conducir en estado afectado))

○

El Tribunal **suspendió indefinidamente** su caso (“stet”);

○

El delito del que se le condenó está incluido en la lista del CÓDIGO DE MD., PROCEDIMIENTO PENAL SECCIÓN § 10-105(a)(9) [MD. CODE, CRIMINAL PROCEDURE § 10-105(a)(9)].

Sí, si han transcurrido tres (3) años O usted presenta una “Exención General y Liberación” [“General Waiver and Release” formulario CC-DC/CR-78][†] y:

Se le declaró **no culpable** (“absolución de cargos”);

○

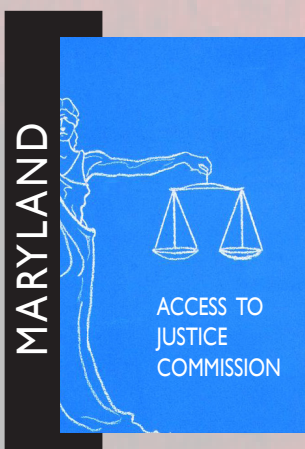
El estado **no enjuició** el cargo contra usted (“nolle prosequi”).

* Los antecedentes de delincuencia juvenil son siempre confidenciales. Se mantienen en un sistema separado de los expedientes penales de los adultos. Presente su solicitud de eliminación de antecedentes ante el secretario del tribunal de Menores que trató su caso.

† Al presentar este formulario, renunciará a ciertos derechos legales que puede tener. Antes de hacerlo, el convendrá hablar con un abogado.

¿Debo comunicar a otros la información que el tribunal eliminó?

En virtud del CÓDIGO DE MD., PROCEDIMIENTO PENAL SECCIÓN § 10-109 [MD. CODE, CRIMINAL PROCEDURE § 10-109], un empleado o institución educativa no puede exigir, como condición de empleo o admisión, que usted divulgue la información penal eliminada sobre su persona. Esto incluye al gobierno estatal. Además, el estado no puede exigirle que divulgue la información penal eliminada cuando solicite una licencia estatal, permiso u otro registro.



COMISIÓN DE
ACCESO
A LA JUSTICIA

www.mdcourts.gov/mdatjc

410.260.1258

Para más información:

El proceso de eliminación de antecedentes penales puede ser complicado. Consulte el folleto sobre Eliminación de antecedentes penales del Poder Judicial de Maryland en www.mdcourts.gov/expungement.

Los formularios judiciales se encuentran en el sitio web del Poder Judicial de Maryland en www.mdcourts.gov/courtforms.

Lea las leyes de Maryland en www.mdcourts.gov/lawlib/researchtools/sourcesmdlaw.html.

Visite la Biblioteca Legal del Pueblo de Maryland, un recurso en línea, en www.peoples-law.org.

Visite personalmente cualquier biblioteca pública especializada en leyes. Llame al 410.260.1430 o averigüe más información en www.mdcourts.gov/lawlib.

Visite o llame a la Oficina del Secretario del tribunal que trató su caso.

Conference of Chief Justices

Conference of State Court Administrators

Resolution 2

In Support of Expanding Rule 2.2 of the ABA Model Code of Judicial Conduct to Reference Cases Involving Self-Represented Litigants

WHEREAS, the Conference of Chief Justices and the Conference of State Court Administrators have long recognized the importance of access to justice for all; and

WHEREAS, access to courts extends both to lawyer-represented and self-represented litigants; and

WHEREAS, judges would benefit from additional guidance regarding their role in cases involving self-represented litigants; and

WHEREAS, Rule 2.2 of the 2007 ABA Model Code of Judicial Conduct on impartiality and fairness addresses a judge's role in cases involving self-represented litigants only in the "comments" section; and

WHEREAS, the Conferences agree that Rule 2.2 should specifically address cases involving self-represented litigants;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices and the Conference of State Court Administrators recommend that states consider adopting Rule 2.2 with the inclusion of the following emphasized wording:

(A) A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.

(B) A judge may make reasonable efforts, consistent with the law and court rules, to facilitate the ability of all litigants, *including self-represented litigants*, to be fairly heard; and

BE IT FURTHER RESOLVED that the Conference of Chief Justices and the Conference of State Court Administrators suggest states modify the comments to Rule 2.2 to reflect local rules and practices regarding specific actions judges can take to exercise their discretion in cases involving self-represented litigants.

Adopted as proposed by the Access, Fairness and Public Trust Committee at the 2012 Annual Meeting on July 25, 2012.

CLASS ACTION RESIDUAL FUNDS – Enhancing Access to Justice

Learn how you can help increase funding for civil legal services for poor and low-income Marylanders

A TOOLKIT FOR MARYLAND LAWYERS

Attorneys Make a Difference: You Can Support Legal Services for the Poor with Class Action Residual Awards



Maryland's Civil Legal Services System Remains Sparse. In Maryland, few low-income individuals can find affordable legal help when they face a legal problem. In our state, approximately 531,166 individuals (9.2%) are living below the federal poverty level. Over 77,000 Maryland families live in poverty. In Maryland it is estimated that only about 22% of civil legal needs of low-income and poor residents are being met with the help of an attorney. While many Maryland attorneys provide *pro bono* assistance, only 0.7% of Maryland lawyers are employed by a legal services organization that serves low-income individuals.

During the last several years, an increasing number of individuals have qualified for legal help based on their income; at the same time, that funding for civil legal services has declined.

As a Litigator, You Can Help. *Using the cy pres doctrine to award undistributed class action funds could go a long way toward helping Maryland meet the need for legal services.* Directing class action residuals to individual legal aid programs, or to the Maryland Legal Services Corporation (MLSC), a non-profit entity that funds civil legal aid in our State, is consistent with the purpose of class action lawsuits. Unnamed members of the class in a class action often have the same characteristics as legal aid clients. It is therefore particularly appropriate to direct residual funds to an organization whose mission is to protect a similar class of persons. *Legal services organizations are appropriate recipients of class action funds.*

Take Action. As a litigator, you are in a unique position to direct class action residuals to MLSC or a specific legal services program. You can:

- Review these materials.
- Look for opportunities in your class action cases to apply the *cy pres* doctrine to benefit civil legal aid in Maryland.
- Talk with opposing counsel and your colleagues about class action residuals and their application to civil legal aid organizations.
- Look for opportunities to help us spread information about class action residuals in local and specialty bar publications and other legal publications.
- Contact the Maryland Access to Justice Commission if you have questions. Call (410) 260-1258, or visit mdcourts.gov/mdatjc.

Thank you for all you do to help us increase access to justice for all in Maryland.

Hon. Irma S. Raker
Maryland Court of Appeals (ret'd)
Chair, Maryland Access to Justice Commission

Class Action Residuals

At the conclusion of a class action lawsuit, there are often unclaimed funds that, for one reason or another, cannot be distributed to the designated class. It may be the class members cannot be located, or may decline to submit a claim. In some class actions, the amount due to each individual member of the class may be so small that the cost of notifying class members, and disbursing and administering the fund would exhaust the fund. In these cases, the court may order that the funds be redirected rather than distributed to individual class members.

These undisbursed monies become a “class action residual fund.” In some instances, the unclaimed funds can be significant. Class action residual funds can often be made available for another use.

Who Determines How to Distribute Class Action Residuals?

In negotiating a settlement, the parties and their counsel can negotiate how class action residual funds will be disbursed.

If the parties do not address the distribution of class action residuals, or if the matter is resolved at trial, the court will determine how unclaimed funds are to be handled.

Cy Pres Doctrine: When Courts Determine the Use of Class Action Residuals

Courts rely on their general equity power, or the doctrine of *cy pres* to justify the distribution of class action residual funds. The *cy pres* doctrine, borrowed from the estates and trust context, refers to the French phrase, “*cy pres comme possible*,” which means “as near as possible.” Under this equitable doctrine, a court may reform a gift or trust, which would otherwise fail, by redirecting funds to another beneficiary to fulfill, “as nearly as possible,” the donor’s original intent. In the class action context, the doctrine is used to distribute unclaimed portions of a class action judgment or settlement fund to a charitable entity that will advance the interests of the class.

Courts retain significant discretion under their equitable powers to determine the “next best use. Parties and their counsel can also play a significant role by directing in the settlement how unclaimed funds will be disbursed.

Why Shouldn’t Unclaimed Funds Revert to the Defendant?

One goal of a class action award is to deter behavior that is harmful to the public. By redirecting class action residual funds, a *cy pres* award ensures that the deterrent goals of the law are fulfilled. It also ensures that the defendant is not unjustly enriched. The defendant still assumes full liability for the harm, regardless of whether or not all class members assert their claim. When residual funds are distributed to a nonprofit entity that serves the public, individuals who did not assert their claim still benefit as members of the community at large.

Class Action Residual Funds Can Support Non-Profits that Provide Legal Help to the Poor in Maryland

Class action lawsuits are often brought on behalf of consumers, low-income individuals and others with small claims who, acting on their own, would be unable to assert a claim effectively against large, institutional defendants. When those class actions are successful, the benefit to each individual may be small, although the benefit to the public at large is significant. *Consider directing unclaimed funds from such cases to one of Maryland's non-profit organizations that provide legal help to the poor.*

Non-profit legal services organizations fulfill a purpose close to the goal of most class action lawsuits – to assert claims and provide a voice for low- and moderate-income Marylanders who would otherwise be unrepresented in dealing with large, institutional defendants. Maryland's legal services providers represent aggrieved individuals, and work for systemic change to support vulnerable individuals, families and communities. They are experts on the types of issues facing low-income people, including consumer issues, public benefits, institutionalized persons, elder law, housing, protection from violence, child welfare, and family law.

Making the Connection: Legal Services Organizations Can Be the “Next Best Use” of Class Action Funds

Courts have found legal services programs to be appropriate recipients of class action residual funds for two basic reasons:

- Legal aid programs commonly represent the next best use of unclaimed funds to indirectly benefit members of a class under the *cy pres* doctrine.
- The underlying mission of legal aid programs for the poor is consistent with the purpose of class action lawsuits and Rule 23 of the Federal Rules of Civil Procedure. Rule 23 recognizes the need to protect the legal rights of those who, because of their economic position, would otherwise be unrepresented.

Nexus

In relying on the *cy pres* doctrine, it is important to identify the “nexus” between the underlying litigation and the recipient and use of a *cy pres* award. For example, if funds remain after litigation over health insurance premiums, class action residual funds might be used to fund positions at non-profit legal services organization that provides healthcare advocacy for low-income clients.

An argument may be made for a broader nexus, for example, between underlying litigation that serves the community at large and access to justice. Class action litigation that has a larger public benefit can be seen as advancing access to justice and might justify the award of residual funds to legal services providers that work to improve the lives of individuals and families in low-income communities.

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Access to Justice

The justice system offers individuals a peaceful method of resolving disputes. The justice system depends, in turn, on the willingness of individuals to mediate disputes through the courts. As long as courts are perceived as neutral, fair and accessible, individuals will participate in that system, submitting to its rulings to address disputes. If individuals perceive that system as overly complex, impenetrable, or its outcomes predetermined, they will go elsewhere.

The public must feel they can be effectively heard – either because they are armed to handle their own case effectively, or because they have the benefit of counsel. Only then will individuals consent to rely on the justice system to observe its rulings. It is upon this fragile consensus that our civil society depends. Non-profit legal services organizations support the rule of law and enhance our just and civil society by providing a voice to the vulnerable, aid to the self-represented, and legal representation to those whose cases require the aid of counsel.

It is appropriate for funds created through the use of the tax-subsidized judicial system to be distributed in part for the purpose of providing access to that system by indigent Marylanders.

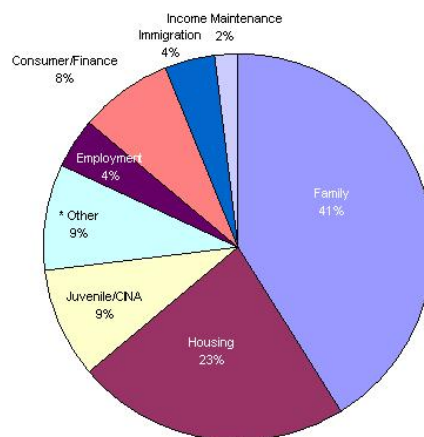
Special Populations

Legal services programs have special projects serving many identifiable populations including: persons over 60 years of age, children, abuse victims, persons with disabilities, public assistance recipients, veterans, migrant workers, immigrants and refugees, low-wage workers, children with special educational needs and low-income persons in general. Some programs target specific case types including: foreclosure, housing, consumer issues, domestic violence.

Scope of Services

Legal aid programs provide a broad range of services, addressing a wide sweep of societal problems.

Types of Cases Handled by Non-Profit Legal Providers in Maryland

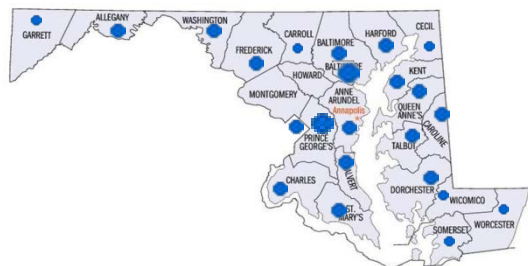


*Includes education, health, individual rights, estates and trusts.

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Geographic Scope

Location and Service Areas of Non-Profit Legal Services in Maryland



Non-profit legal services organizations have a presence in all regions in Maryland. Some serve residents statewide; others focus on a single jurisdiction or region. Maryland's non-profit legal aid providers serve every population and geographic region in the state. A class action residual fund award to legal aid providers can be structured to impact the desired group or locale.

For More Information

Kevin M. Forde, *What Can a Court Do with Leftover Class Action Funds? Almost Anything!*, 35 JUDGES' JOURNAL 19 (Summer 1996).

Bob Glaves, *What Would You Do with a Million Dollars? How to Seek Cy Pres Awards*, BAR LEADER 24 (September/October 2007).

Examples of Class Action Residual Fund Awards

Awards in Maryland to Non-Profit Legal Services

- In 2010, Maryland Legal Aid received \$1.2 million in *cy pres* awards.
- CASA de Maryland received \$25,000 as the result of a settlement reached in federal court in Maryland from a national collective action lawsuit in which janitors claimed they had been denied overtime pay in violation of the Fair Labor Standards Act. CASA de Maryland, which serves low-income Latino immigrants, used the funds to help others affected by wage theft.
- Maryland Legal Aid was awarded \$30,000 in 2004. The residual fund award was the result of a suit against a car dealership which plaintiffs claim had been overcharging for taxes, title and registration fees. Legal Aid was recognized for its work on behalf of consumers in Maryland to safeguard them from predatory lenders.
- In 2003, thanks to the efforts of Connie Kratovil-Lavelle, co-counsel for plaintiffs in partnerships with Washington, DC firm, Beins, Goldberg & Gleiberman, several legal services providers received a total of \$495,000. Class action residual funds were distributed to Maryland Legal Services Corporation, and bar foundations in Prince George's and Montgomery Counties, the result of a class action against cable TV companies alleged to have overcharged fees.
- Maryland Legal Aid and the Public Justice Center each received \$200,000 in 2003 from leftover settlement funds in a class action against a storage company.
- A national class action filed in 1999 resulted in a \$106,000 *cy pres* award to Maryland Legal Aid, the residuals of a settlement between Chevy Chase Bank and plaintiffs who alleged the bank had overcharged fees.

Examples Across the Country

- **Georgia:** Georgia Legal Services Program and Atlanta Legal Aid Society collectively received more than \$3 million from court awards in three lawsuits.
- **Illinois:** Legal Aid Foundation of Metro Chicago and Land of Lincoln Legal Assistance Foundation collectively received \$824,000 from 19 court awards.
- **Minnesota:** Minnesota Legal Aid Foundation received \$3.2 million in two court awards.
- **Texas:** An Austin attorney was instrumental in designating more than \$2.6 million in court awards to the Texas Access to Justice Foundation and five of its grantees to support civil legal services to persons with disabilities.
- **Washington, DC:** One legal aid program and three law school clinical programs received more than \$10 million from court awards resulting from a single lawsuit.

Practice Points & Tips

1. Raise the topic of residual provisions early

Raising the issue of a class action residual provision relatively early in settlement negotiations can have a positive impact on the process. Some defendants may find the prospect of paying money to settle a case more palatable when they consider that some of the money may benefit a good cause.

2. Always consider whether there are funds that can be made available

Counsel should always consider whether there are funds that can be made available for court awards to legal aid. The decision to make a court award in a class action settlement most often comes during the settlement process.

3. Consider setting aside a fixed amount or percentage for charitable purposes

The most common use of class action residuals is the case where a settlement provides that unclaimed or leftover funds will be used for the awards. However, you may negotiate to set aside a fixed percentage of the settlement fund or a certain amount for charitable purposes, including legal aid, even where settlement funds are to be distributed to identifiable plaintiffs.

4. Consider whether publicity would be appropriate

The driving force for class action residual awards to legal aid programs is often the plaintiffs' counsel, but defense counsel frequently welcome the award as a way for their client to resolve a case and obtain some positive publicity from the settlement. On the other hand, both parties may prefer to keep the settlement confidential. It is important to be sensitive to the desires of both parties when deciding whether or not to publicize an award.

Samples Settlement Provision Designating a Cy Pres Distribution

6. COMMON FUND

6.1 There shall be a Common Fund established.

6.2 The Defendants shall pay \$_____ into the Common Fund. The fund shall be deposited with Class Counsel within 90 days of an order preliminarily approving the class settlement. The funds will be held in an escrow account established by [Law Firm]. In the event that the settlement class does not receive final approval, the funds shall be returned to the Defendants, less any expenses and costs incurred to administer notice to the class pursuant to the order(s) of the Court and terms of the Agreement, unless otherwise agreed by the parties.

6.3 The Defendant shall have no financial responsibilities to the Plaintiffs, the Maryland Class Members, or the Class Counsel beyond the payment of \$_____ except that Defendants will return any payments received on or after the date the Preliminary Approval Order is entered.

6.4 The Class Counsel shall administer the Common Fund, either directly or through a third-party administrator.

6.5 Subject to final approval by the Court, the following shall be paid from the Common Fund:

6.5.1 The administrative costs of administering the Agreement, notices required by the Agreement, and fully administrating the Common Fund;

6.5.2 Payments to Plaintiffs as required by [Relevant Section].

6.5.3 Payments to Maryland Class members, after approval of Maryland Class Members' claims, as required by [Relevant Section]; and

6.5.4 Payment of attorney fees and cost as required by [Relevant Section] and approved by the Court.

6.5.5 Excess funds remaining in the Common Fund after payments required above shall be paid as a *cy pres* award to an organization nominated by the Plaintiffs, subject to objection by the Defendants and final approval by the Court.

Sample Order: Approving Settlement Agreement

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
(BALTIMORE DIVISION)

Plaintiffs

Case No.

v.

Defendants

FINAL ORDER AND JUDGMENT

Upon consideration of the parties' request and motion for final certification of the settlement class under Fed. R. Civ. P. 23(b)(3) and final approval of the proposed class action settlement, and upon consideration of the Agreement, the Final Approval Motion, and the record,

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The Court has jurisdiction over the subject matter of the lawsuit and over all settling parties hereto.
2. CLASS MEMBERS — Pursuant to Fed. R. Civ. P. 23(b)(3), the Lawsuit is hereby finally certified as a class action on behalf of the following Maryland Class Members:

[Definition of Class]

3. CLASS REPRESENTATIVE AND CLASS COUNSEL APPOINTMENT - Pursuant to Fed. R. Civ. P. 23, the Court finally certifies Plaintiffs as the Class Representatives and [ATTORNEY] of the [FIRM NAME] law firm as Class Counsel. The Court, in appointing Class Counsel, has reviewed the factors set forth in Rule 23(g) and appoints Class Counsel based on the review of the criteria set forth therein.

4. NOTICES — Pursuant to the Court's Preliminary Approval Order, the approved class action notices were mailed to the Maryland Class Members. The form and method for notifying the Maryland Class Members of the settlement and its terms and conditions was in conformity with this Court's preliminary approval order and satisfied the requirements of Fed. R. Civ. P. 23(c)(2)(b) and due process, and constituted the best notice practicable under the circumstances. The Court finds that the proposed notices were clearly designed to advise the class members of their rights.

5. FINAL CLASS CERTIFICATION — The Court finds that the Lawsuit satisfies the applicable prerequisites for class action treatment under Fed. R. Civ. P. 23, namely:

5.1. The Maryland Class Members are so numerous that joinder of all of them in the Lawsuit is impracticable;

5.2. There are questions of law and fact common to the Maryland Class Members, which predominate over any individual questions;

5.3. Plaintiffs' claims are typical of the claims of the Maryland Class Members;

5.4. Plaintiffs and Class Counsel have fairly and adequately represented and Protected the interests of all of the Maryland Class Members; and

5.5. Class treatment of these claims will be efficient and manageable, thereby achieving an appreciable measure of judicial economy, and a class action is superior to other available methods for a fair and efficient adjudication of this controversy.

6. The Court finds that the settlement of the Lawsuit, on the terms and conditions set forth in the Agreement, is in all respects fundamentally fair, reasonable, adequate, and in the best interests of the settling class members, especially in light of the benefits to the settling class members; the strength of the Plaintiffs' case; the complexity, expense, and probable duration of further litigation; the risk and delay inherent in possible appeals; the risk of collecting any judgment obtained on behalf of the Maryland class; and the limited amount of any potential total recovery for the class.

7. The Court finds that the total sum of \$ _____ to be paid to the Class Representatives pursuant to the terms of the Agreement is a fair and reasonable amount to be paid to them and hereby approves and directs the payments be made from the Common Fund.

8. The Court finds the sum of \$ _____ to Class Counsel for attorneys' fees and costs is fair and reasonable amount based and hereby approves and directs the payments be made from the Common Fund.

9. All payments to members of the Class who elected to receive their share of the Common Fund shall receive the payment required as set forth in the Settlement Agreement.

10. The Court further finds that any residue of the Common Fund shall be contributed as *cy pres* in percentages indicated below to the following non-profit organizations:

- ___% to [NON-PROFIT LEGAL SERVICES PROVIDER].
- ___% to [NON-PROFIT LEGAL SERVICES PROVIDER OR OTHER NON-PROFIT].

11. SETTLEMENT TERMS — The Agreement, which shall be deemed incorporated herein, and the proposed settlement are finally approved and shall be consummated in accordance with the terms and provisions thereof, except as amended by any order issued by this Court. The parties are hereby directed to perform the terms of the Agreement.

12. OBJECTIONS AND EXCLUSIONS — The Maryland Class Members were given an opportunity to object to the settlement. No Maryland Class Member objected to the settlement. The Maryland Class Members who made valid and timely requests for exclusion are excluded from the class and settlement and are not bound by this order. The identities of such persons are set forth in Exhibit A attached hereto. This order is binding on all Maryland Class Members, except those individuals identified in Exhibit A.

13. RELEASE OF CLAIMS AND DISMISSAL OF LAWSUIT — Plaintiffs, the Maryland Class Members, and their successors and assigns fully, finally, and forever settle, release, and discharge the "Released Parties" (as defined in the Agreement) from the "Released Claims" (as defined in the Agreement), and are forever barred and enjoined from asserting any of the Released Claims in any court or forum whatsoever as set forth in the Agreement. Pursuant to the release contained in the agreement, the released claims are compromised, settled, released, discharged, and dismissed

with prejudice by virtue of these proceedings and this order.

14. The Lawsuit is hereby dismissed with prejudice in all respects.

15. This order shall not be construed as an admission by Defendants of any liability or wrongdoing in this or in any other proceeding.

16. The Court hereby retains continuing and exclusive jurisdiction over the Parties and all matters relating to the Lawsuit and Agreement, including the administration, interpretation, construction, effectuation, enforcement, and consummation of the settlement and this order.

Dated: _____

The Honorable [NAME OF JUDGE]
United States District Judge

Tips for Preparing an Affidavit in Support of Cy Pres Award

Non-profit legal services organizations may want to submit an affidavit in support of a potential class action residual fund or *cy pres* award. Some suggestions for how to prepare that affidavit follow:

- Provide information about your organization's history, background and mission, making a clear link between the work your organization does and the purpose of the lawsuit.
- Tie your organization's work directly to the type of activities the lawsuit is intended to redress. Be specific about the types of legal work your organization undertakes.
- Explain why your organization is well-suited to receive and administer the funds to the intended beneficiaries of the lawsuit.
- Make it clear that your organization is a not-for-profit, private law firm that provides free civil legal assistance to low-income Maryland residents. Clarify how your organization is funded, and provide more detail on the jurisdictions served, especially if you want to highlight the overlap between your organization's clients and the intended beneficiaries of the lawsuit.
- Be specific about the types of benefits you are able to achieve for your organization's clients and how that work benefits the state as a whole.
- Tie the benefits you provide your organization's clients to their larger problems, noting the broader impact such work may have. For example, the credit card debt and other financial difficulties of clients has a detrimental impact on many areas of their lives and often results in loss of housing (through foreclosure or eviction), garnishment of wages or attachment of bank accounts. The negative credit status created by financial problems often impacts a client's ability to obtain affordable subsidized housing, insurance and employment.
- Give specific examples of the types of activities your organization undertakes that may impact clients. This may include direct legal representation as well as assistance with forms, consultations, support, outreach and public education, workshops or seminars, among others.
- Use evaluations and statistical information about the impact of civil legal aid generally in Maryland. You may want to use the Media Kit available from the Maryland Access to Justice Commission, available at <http://mdcourts.gov/mdatjc/pdfs/mediakit.pdf>.

Non-Profit Legal Service Providers in Maryland

Allegany Law Foundation, Inc.

Executive Director: Marcia Conrad, Esq.
110 Greene Street
Cumberland, MD 21502
Phone: (301) 722-3390 Fax: (301) 722-3393
Email: alleganylaw@wirefire.com
Website: alleganylaw.com

Allegany Law Foundation serves low-income clients through the efforts of a small in-house staff and a panel of attorneys handling cases on a pro bono or reduced-fee basis.

Alternative Directions, Inc.

Executive Director: Michelle Kelly
2505 N. Charles Street
Baltimore, MD 21218
Phone: (410) 889-5072 Fax: (410) 889-5092
Email: adi.legal@verizon.net
Website: alternativedirectionsinc.org

Alternative Directions provides free legal assistance, primarily family and domestic legal issues, to persons in prison or recently released from incarceration. The program also provides monthly workshops to prisoners on legal rights and responsibilities.

Asian Pacific American Legal Resource Center

Executive Director: Zenobia Lai, Esq.
1012 14th St., NW Suite 450
Washington, DC 20005
Phone: (202) 393-3572 Fax: (202) 393-0995
Email: zenobia.lai@apalrc.org
Website: apalrc.org

The Asian Pacific American Legal Resource Center addresses the legal needs of low-income, limited English proficient Asian Americans in Maryland and represents low-wage workers and victims of domestic violence in Maryland.

Baltimore Bar Foundation Senior Legal Services

Executive Director: Katherine Sanzone
111 North Calvert Street
Baltimore, MD 21202
Phone: (410) 396-5277 Fax: (410) 332-8468
Email: info@baltimorebar.org
Website: baltimorebar.org

The Baltimore Bar Foundation's Senior Legal Services program provides free legal representation and advice to Baltimore City residents 60 years and older.

Baltimore Neighborhoods, Inc.

Interim Executive Director: Fatima Wilson
2530 North Charles Street, Suite 200
Baltimore, MD 21218
Phone: (410) 243-4400 Fax: (410) 889-8653
Email: fwilson@bni-maryland.org
Website: bni-maryland.org

BNI operates a statewide landlord/tenant counseling hotline.

CASA de Maryland

Executive Director: Gustavo Torres
8151 15th Avenue
Hyattsville, MD 20783
Phone: (301) 270-0419 Fax: (301) 270-8659
Email: gtorres@casamd.org
Website: casademaryland.org

CASA operates an Employment Rights Project, which assists Latin Americans and other day laborers in Montgomery and Prince George's Counties and Baltimore City with employment-related legal issues.

CASA, Inc. (Citizens Assisting and Sheltering the Abused)

Executive Director: Vicki A. Sadehvandi
116 W. Baltimore Street
Hagerstown, MD 21740
Phone: (301) 739-4990 Fax: (301) 790-0064
Email: casa.incorp@myactv.net
Website: casainc.org

CASA operates a Legal Services Program which provides legal assistance to victims of domestic violence and sexual assault in Washington County.

Catholic Charities of Baltimore

Director: Valerie Twanmoh, Esq.
430 S. Broadway
Baltimore, MD 21231
Phone: (410) 534-8015 Fax: (410) 675-1451
Email: imlserv@catholiccharities-md.org
Website: catholiccharities-md.org

Catholic Charities of Baltimore Immigration Legal Services Project provides client screening, counseling and legal representation for low-income persons with immigration problems in the Baltimore metropolitan area in a wide array of immigration matters.

Catholic Charities of the Archdiocese of Washington

Executive Director: Ed Orzechowski
Project Director: Jeanne Atkinson, Esq.
924 G Street, NW
Washington, DC 20001
Phone: (202) 526-4100 Fax: (202) 526-1829
Email: jeanne.atkinson@catholiccharitiesdc.org
Website: catholiccharitiesdc.org

Catholic Charities of the Archdiocese of Washington Immigration Legal Services provides legal assistance and representation to low-income persons with immigration problems residing primarily in Prince George's and Montgomery counties.

Community Law Center

Executive Director: Kristine Dunkerton, Esq.
3355 Keswick Road, Suite 200
Baltimore, MD 21211
Phone: (410) 366-0922 Fax: (410) 366-7763
Email: kristined@communitylaw.org
Website: communitylaw.org

CLC provides legal counsel and representation to nonprofit organizations that represent issues of low-income people and are unable to afford private counsel.

Community Legal Services of Prince George's County

Executive Director: Neal Conway
6301 Ivy Lane, Suite 720
Greenbelt, MD 20770
Phone: (240) 391-6370 Fax: (240) 391-6356
Email: conway@clspgc.org
Website: clspgc.org

Community Legal Services of Prince George's County provides civil legal assistance to low-income persons of Prince George's County through a panel of pro bono and reduced-fee attorneys.

Domestic Violence Center of Howard County

Executive Director: Jennifer Pollitt Hill
5457 Twin Knolls Road, Suite 310
Columbia, MD 21046
Phone: (410) 997-0304 Fax: (410) 997-1397
Email: jpollithill@dvcenter.org
Website: dvcenter.org

The Domestic Violence Center of Howard County operates a legal services project, which serves low-income domestic violence victims.

Harford County Bar Foundation

Executive Director: Cynthia A. Lewis
Harford County Circuit Court Building
20 W. Courtland Avenue, 2nd Floor
Bel Air, MD 21014
Phone: (410) 836-0123 Fax: (410) 836-7117
Email: clewishcbf@verizon.net
Website: marylandlaw.net/harford/brochure.htm

The Harford County Bar Foundation operates a pro bono and reduced-fee legal services program, providing intake and referral services to low-income persons with civil legal problems.

Heartly House, Inc.

Chief Executive Officer: Roberta Geidner
P.O. Box 857
Frederick, MD 21701
Phone: (301) 662-8800 Fax: (301) 663-4334
Email: ceo@heartlyhouse.org
Website: heartlyhouse.org

Heartly House is a private nonprofit agency serving victims of domestic violence, rape and sexual assault in Frederick County.

Homeless Persons Representation Project

Executive Director: Antonia Fasanelli, Esq.
201 North Charles Street, Suite 1104
Baltimore, MD 21201
Phone: (410) 685-6589 Fax: (410) 625-0361
Email: afasanelli@hprplaw.org
Website: hprplaw.org

Homeless Persons Representation Project provides staff and pro bono assistance in a range of housing and other legal matters to clients in and at risk for homelessness as well as to those in homeless shelters in Maryland.

House of Ruth of Maryland

Executive Director: Sandi Timmins
Legal Clinic Director: Dorothy Lennig, Esq.
2201 Argonne Drive Baltimore, MD 21218
Phone: (410) 889-0840 Fax: (410) 889-9347
Email: dlennig@hruthmd.org
Website: hruth.org

House of Ruth's Domestic Violence Legal Clinic provides legal assistance to low-income victims of domestic violence from offices in Baltimore City and Prince George's and Montgomery counties. The clinic also provides technical assistance and training to spouse abuse centers and interested community organizations statewide.

Legal Aid Bureau, Inc.

Executive Director: Wilhelm H. Joseph, Jr., Esq.
500 E. Lexington Street
Baltimore, MD 21202
Phone: (410) 951-7777 Fax: (410) 951-7778
Website: mdlab.org

Established in 1911, LAB is Maryland's primary provider of civil legal services to low-income persons and operates at locations across the state.

Maryland Coalition for Inclusive Education

Co-Director: Selene Almazan, Esq.
Co-Director: Carol Quirk
7484 Candlewood Road, Suite R
Hanover, MD 21076
Phone: (410) 859-5400 Fax: (410) 859-1509
Email: mcie@mcie.org
Website: mcie.org

The Maryland Coalition for Inclusive Education provides representation to disabled children throughout Maryland seeking to be educated in the least restrictive environment.

Maryland Crime Victims Resource Center, Inc.

Executive Director: Russell Butler, Esq.
1001 Prince George's Boulevard, Suite 750
Upper Marlboro, MD 20774
Phone: (301) 952-0063 Fax: (301) 952-2319
Email: rbutler@mdcrimevictims.org
Website: mdcrimevictims.org

Maryland Crime Victims Resource Center, Inc. is a statewide victims' rights organization. The organization disseminates information on victims' rights to all Marylanders and provides specialized legal services to indigent crime victims.

Maryland Disability Law Center

Executive Director: Virginia Knowlton
1500 Union Avenue, Suite 2000
Baltimore, MD 21211
Phone: (410) 727-6352 Fax: (410) 727-6389
Email: mdlcbalto@mdlcbalto.org
Website: mdlcbalto.org

MDLC provides free representation for disabled children and adults statewide with legal problems related to their disabilities.

Maryland Legal Services Corporation

Executive Director: Susan Erlichman
15 Charles Plaza, Suite 102
Baltimore, MD 21201
Phone: (410) 576-9494
Email: serlichman@mlsc.org
Website: mlsc.org

The Maryland Legal Services Corporation (MLSC) is the primary state-based funding source for the provision of civil legal services in Maryland. MLSC administers a variety of funding sources earmarked to support nonprofit legal services providers throughout Maryland. It is statutorily charged with making grants in a manner that best ensures low-income people throughout the state have access to quality legal assistance in an effective and efficient manner. MLSC provides ongoing compliance and monitoring reviews to ensure adherence to grant requirements and agreements and to ensure fiscal oversight and programmatic accountability and transparency. It has administered Maryland's Interest on Lawyers Trust Accounts (IOLTA) program for thirty years. Thirty-four nonprofits rely on funding from MLSC to serve more than 150,000 clients annually with a broad array of civil legal problems including home foreclosure, domestic violence, veterans benefits, nursing home issues and other serious legal problems.

Maryland Public Interest Law Project

Co-Presidents: Melissa Scheffkind and Cristina Sproul
Advisor: Teresa Schmiedeler, Esq.
University of Maryland Law School
500 W. Baltimore Street
Baltimore, MD 21201
Phone: (410) 706-8393 Fax: (410) 706-4045
Email: mpilp@law.umaryland.edu
Website: law.umaryland.edu/studentorg/mpilp

MPILP, located at the University of Maryland Francis King Carey School of Law, encourages law students to enter public interest law practice and offers law students from the University of Maryland and the University of Baltimore paid summer internships at public interest organizations of their choice.

Maryland Volunteer Lawyers Service

Executive Director: Bonnie Sullivan, Esq.
One North Charles Street, Suite 222
Baltimore, MD 21201
Phone: (410) 539-6800 Fax: (410) 837-0431
Email: info@mvlslaw.org
Website: mvlslaw.org

MVLS is a statewide program that serves low-income persons with a variety of civil legal problems through a referral program that places clients with volunteer or reduced-fee attorneys.

Mid-Shore Council on Family Violence, Inc.

Executive Director: Jeanne Yeager
P.O. Box 5
Denton, MD 21629
Phone: (410) 479-1149 Fax: (410) 479-2064
Email: jyeager@mscfv.org
Website: mscfv.org

The Mid-Shore Council operates a reduced-fee legal services program for low-income victims of domestic violence in Caroline, Dorchester, Kent, Queen Anne's, and Talbot counties.

Mid-Shore Pro Bono, Inc.

Executive Director: Sandy Brown
216 East Dover Street, Bldg. 300
Easton, MD 21601-3072
Phone: (410) 690-8128 Fax: (443) 385-0210
Email: sabrown@midshoreprobono.org
Website: midshoreprobono.org

Mid-Shore Pro Bono provides pro bono and reduced-fee services in Caroline, Dorchester, Kent, Queen Anne's, and Talbot counties.

Montgomery County Bar Foundation

Executive Director: Julie Peterson
27 W. Jefferson Street
Rockville, MD 20850
Phone: (301) 424-7651 (intake) Fax: (301) 217-9327
Website: montbar.org

The Montgomery County Bar Foundation operates pro bono and reduced-fee programs in which attorneys are recruited to take pro bono cases in their area of expertise. The Foundation also conducts community outreach to Montgomery County's growing immigrant population.

Pro Bono Resource Center of Maryland

Executive Director: Sharon Goldsmith, Esq.
520 West Fayette Street
Baltimore, MD 21201
Phone: (410) 837-9379 Fax: (410) 385-2616
Email: sgoldsmith@probonomd.org
Website: probonomd.org

PBRC is a statewide pro bono support center that coordinates pro bono training and activities, maximizes volunteer attorney services to low-income Maryland residents and provides support for pro bono programs throughout the state. PBRC also administers a litigation expense fund for other pro bono and reduced-fee programs throughout Maryland. PBRC coordinates limited pro bono services in foreclosure prevention, consumer protection and family mediation.

Public Justice Center

Executive Director: John Nethercut, Esq.
One North Charles Street, Suite 200
Baltimore, MD 21201
Phone: (410) 625-9409 Fax: (410) 625-9423
Email: nethercutj@publicjustice.org
Website: publicjustice.org

PJC provides legal representation to low-income tenants, workers, and students who are homeless or in foster care; advocates to protect and expand Medicaid and for a civil right to counsel; and provides appellate advocacy on a wide range of poverty law and discrimination issues.

SARC (Sexual Assault/Sexual Abuse Resource Center)

Executive Director: Luisa Caiazzo-Nutter
Project Director: Gwendolyn Tate, Esq.
P.O. Box 1207
Bel Air, MD 21014
Phone: (410) 836-8431 Fax: (410) 838-9484
Email: lcn@sarc-maryland.org
Website: sarc-maryland.org

The SARC Legal Services Program provides legal services for victims of domestic violence and sexual assault in Harford County.

St. Ambrose Housing Aid Center, Inc.

Executive Director: Gerard J. Joab
321 E. 25th Street
Baltimore, MD 21218
Phone: (410) 235-5770 Fax: (410) 255-8795
Email: gerardj@stambros.org
Website: stambros.org

St. Ambrose Legal Services Program, a project of St. Ambrose Housing Aid Center, Inc., provides free legal assistance to low-income homeowners who are in danger of losing their homes.

Sexual Assault Legal Institute

Executive Director: Jennie Boden
Project Director: Lisae C. Jordan, Esq.
P.O. Box 8782
Silver Spring, MD 20907
Phone: (301) 565-2277 Fax: (301) 565-3619
Email: lcjordan@mcasa.org
Website: mcasa.org

The Sexual Assault Legal Institute is part of the Maryland Coalition Against Sexual Assault and provides comprehensive legal assistance to victims of sexual assault throughout the state.

Southern Maryland Center for Family Advocacy

Executive Director: Laura Joyce
P.O. Box 760
Hollywood, MD 20636
Phone: (301) 373-4141 Fax: (301) 373-4147
Email: lauraj@smcfa.net
Website: smcfa.net

The Southern Maryland Center for Family Advocacy provides legal services to low-income clients of St. Mary's, Calvert, and Charles counties, primarily in the area of domestic violence.

University of Maryland**Health Care Delivery and Child Welfare Legal Clinic**

Clinical Director: Michael Pinard, Esq.
Contact: Sara Gold, Esq.
500 West Baltimore Street
Baltimore, MD 21201
Phone: (410) 706-8340 Fax: (410) 706-5856
Email: sgold@law.umaryland.edu

The University of Maryland Clinical Law Office operates an HIV Legal Representation Project, in which law students provide legal services to persons with AIDS and HIV infection in Baltimore City.

Whitman-Walker Health Legal Services Program

Executive Director: Don Blanchon
Program Director: Daniel Bruner, Esq.
1701 14th Street, NW
Washington, DC 20009
Phone: (202) 939-7627 Fax: (202) 939-7651
Email: dbruner@wwc.org
Website: wwc.org

The Whitman-Walker Health's Legal Services Program provides pro bono legal assistance to persons living with HIV/AIDS. MLSC funding supports services to residents of Montgomery, Prince George's, Frederick, Charles, and Calvert counties.

Women's Law Center, Inc.

Executive Director: L. Tracy Brown, Esq.
305 W. Chesapeake Avenue, Suite 201
Towson, MD 21204
Phone: (410) 321-8761 Fax: (410) 321-0462
Email: tbrown@wlcmd.org
Website: wlcmd.org

The Women's Law Center was established in 1971 to meet the special legal needs of women. The program operates a statewide Family Law Hotline, an Employment Law Hotline that includes a lawyer referral panel, domestic violence representation projects, and a Judicare project that matches private attorneys with low-income individuals seeking representation in contested custody and other contested family law matters.

YWCA of Annapolis and Anne Arundel County

Executive Director: Molly Knipe
1517 Ritchie Highway, Suite 201
Arnold, MD 21012
Phone: (410) 626-7800 Fax: (410) 626-7312
Email: mknipe@ywcaaac.org
Website: annapolisywca.org

The YWCA legal services program provides representation in domestic violence matters, and administers a Judicare project, matching private attorneys with low-income individuals seeking representation in contested child custody matters.

RULES GOVERNING ADMISSION TO THE BAR OF MARYLAND

Md. R. Gov'g Admis. Bar 15.2 (2012)

Rule 15.2. Special authorization for pro bono attorney.

(a) **Pro Bono Representation.** A pro bono attorney may, under the auspices of a Maryland nonprofit entity or agency whose purpose includes the coordination or provision of pro bono legal representation to income-eligible persons, act as legal counsel on behalf of a person or entity seeking representation through the nonprofit entity or agency.¹

(b) **Authorization.** To obtain authorization to practice under this Rule the attorney shall file with the Clerk of the Court of Appeals a written request accompanied by (1) evidence of graduation from a law school as defined in Rule 4 (a) (2), (2) a statement signed by the Executive Director of the nonprofit legal services program through which the attorney intends to provide pro bono representation affirming the attorney is currently associated with an organized legal services program serving income-eligible persons, and the attorney will be supervised by an enrolled, active member of the Maryland Bar, and (3) an affirmation that the attorney will not receive or expect compensation or other direct or indirect pecuniary gain for the legal services rendered.² To obtain authorization the attorney must meet one of the following qualifications:

(i) **Maryland Attorneys.** To be admitted to pro bono practice, the attorney must be admitted to practice in Maryland and be on inactive status, in good standing, and certify that he or she has no pending disciplinary proceeding.

(ii) **Out-of-State Attorneys.** To be admitted to pro bono practice, an out-of-state attorney must submit a certificate of the highest court of another state or jurisdiction of the United

¹ To aid the Clerk of the Court of Appeals in implementing the rule, each year the Maryland Legal Services Corporation will provide the Clerk with a list of its grantees and other non-profit programs of which it is aware that offer pro bono services to income-eligible clients.

² This rule shall not prohibit an attorney authorized to practice under this rule from requesting or recovering attorney's fees as otherwise authorized by law. However, the attorney may not retain fees and must remit any and all fees to the Maryland non-profit legal services provider from which the attorney accepted the case.

States, certifying that the attorney is licensed to practice law and is on active, inactive or equivalent status in that jurisdiction, must certify they he or she is in good standing in all courts and jurisdictions in which he or she is admitted to practice, and that he or she has no pending disciplinary proceedings.

(c) **Certificate of Authorization to Practice.** Upon the filing of the proof of eligibility required by this Rule, the Clerk of the Court of Appeals shall issue a certificate under the seal of the Court certifying that the attorney is authorized to practice under this Rule. The certificate shall contain the effective date of the special authorization to practice as a pro bono attorney.

(d) **Automatic Termination.** Authorization to practice under this Rule is automatically terminated if the attorney ceases to be associated with an organized legal services program in this State. Within ten days after cessation of the attorney's association, the Executive Director of the non-profit entity or agency shall file with the Clerk of the Court of Appeals notice of the termination of authorization.

(e) **Revocation or Suspension.** At any time, the Court, in its discretion, may revoke or suspend authorization to practice under this Rule either by written notice to the attorney or by amendment or deletion of this Rule.

(f) **Special Authorization Not Admission.** Attorneys authorized to practice under this Rule are not, and shall not represent themselves to be, members of the Bar of this State, except in connection with pro bono practice that is authorized under this Rule.

(g) **Subject to Ethical Rules.** Attorneys admitted to practice under this Rule are subject to the Maryland Lawyers' Rules of Professional Conduct and to the rules of procedure regarding pro bono and IOLTA reporting, attorney discipline and disciplinary proceedings. They shall not be required to make payments to the Client Protection Fund of the Bar of Maryland or the Disciplinary Fund.

HOUSE BILL 838

D1, D3

3lr2076
CF SB 640

By: **Delegates Dumais, Anderson, Cardin, Carter, Clippinger, Conaway, Frick, Haynes, Lafferty, Lee, McComas, McDermott, Mitchell, Oaks, V. Turner, Valderrama, Valentino-Smith, and Waldstreicher**

Introduced and read first time: February 7, 2013

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Cases – Maryland Legal Services Corporation Fund – Surcharges –**
3 **Repeal of Termination Date**

4 FOR the purpose of repealing the termination date of certain provisions of law altering
5 certain surcharges on certain fees, charges, and costs in certain civil cases and
6 requiring a certain informational budget to be prepared for the Maryland Legal
7 Services Corporation and submitted to the General Assembly; and generally
8 relating to the Maryland Legal Services Corporation Fund.

9 BY repealing and reenacting, without amendments,
10 Article – Courts and Judicial Proceedings
11 Section 7–202(a)(1), (d), and (f) and 7–301(c)
12 Annotated Code of Maryland
13 (2006 Replacement Volume and 2012 Supplement)

14 BY repealing and reenacting, without amendments,
15 Article – Human Services
16 Section 11–208
17 Annotated Code of Maryland
18 (2007 Volume and 2012 Supplement)

19 BY repealing and reenacting, with amendments,
20 Chapter 486 of the Acts of the General Assembly of 2010
21 Section 2

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article – Courts and Judicial Proceedings**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 7-202.

2 (a) (1) (i) The State Court Administrator shall determine the amount
3 of all court costs and charges for the circuit courts of the counties with the approval of
4 the Board of Public Works.

5 (ii) The fees and charges shall be uniform throughout the State.

6 (d) The State Court Administrator, as part of the Administrator's
7 determination of the amount of court costs and charges in civil cases, shall assess a
8 surcharge that:

9 (1) May not be more than \$55 per case; and

10 (2) Shall be deposited into the Maryland Legal Services Corporation
11 Fund established under § 11-402 of the Human Services Article.

12 (f) If a party in a proceeding feels aggrieved by any fee permitted under this
13 subtitle or by §§ 3-601 through 3-603 of the Real Property Article, the party may
14 request a judge of that circuit court to determine the reasonableness of the fee.

15 7-301.

16 (c) (1) The filing fees and costs in a civil case are those prescribed by law
17 subject to modification by law, rule, or administrative regulation.

18 (2) The Chief Judge of the District Court shall assess a surcharge that:

19 (i) May not be more than:

20 1. \$8 per summary ejectment case; and

21 2. \$18 per case for all other civil cases; and

22 (ii) Shall be deposited into the Maryland Legal Services
23 Corporation Fund established under § 11-402 of the Human Services Article.

24 (3) The Court of Appeals may provide by rule for waiver of
25 prepayment of filing fees and other costs in cases of indigency.

26 Article – Human Services

27 11-208.

28 (a) The executive director shall prepare an annual budget for the
29 Corporation.

1 (b) (1) For informational purposes only, the Corporation shall submit its
2 budget to the General Assembly in conjunction with the budget request of the Judicial
3 Branch of the State government on November 1 of each year.

4 (2) The informational budget required under this subsection shall
5 include 3 years of data, including the most recently completed fiscal year, an estimate
6 for the current fiscal year, and an estimate for the next fiscal year, including:

7 (i) a summary of total expenditures and the sources of revenue
8 that support that spending;

9 (ii) line item expenditure detail for personnel, operating
10 expenses, and grants, including individual grantees;

11 (iii) narrative explanation of all revenue and spending changes
12 between the current fiscal year and the next fiscal year;

13 (iv) performance measurement data that details the use of
14 funds; and

15 (v) detail on the Corporation's reserve fund, including actual
16 and estimated end of fiscal year balances, transfers to and from the reserve fund, and
17 the policies governing the reserve fund.

18 **Chapter 486 of the Acts of 2010**

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 July 1, 2010. [It shall remain effective for a period of 3 years and, at the end of June
21 30, 2013, with no further action required by the General Assembly, this Act shall be
22 abrogated and of no further force and effect.]

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 June 1, 2013.

HOUSE BILL 1303

D1

3lr2854
CF SB 809

By: **Delegates Dumais, Anderson, Carter, Ivey, Lee, Oaks, Rosenberg, and Valderrama**

Introduced and read first time: February 8, 2013

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Legal Services Corporation Funding – Abandoned Property Funds**

3 FOR the purpose of altering the distributee of certain abandoned property funds that
4 the Comptroller is required to distribute each year; altering the amount that the
5 Comptroller is required to distribute; repealing certain provisions of law
6 requiring the Governor to appropriate a certain amount in certain budgets each
7 year to the Maryland Legal Services Corporation Fund; repealing certain
8 provisions of law authorizing the Governor to transfer a certain amount to the
9 Fund from a certain portion of abandoned property funds; altering a certain
10 source of money in the Fund; and generally relating to Maryland Legal Services
11 Corporation funding.

12 BY repealing and reenacting, with amendments,
13 Article – Commercial Law
14 Section 17–317(a)
15 Annotated Code of Maryland
16 (2005 Replacement Volume and 2012 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Human Services
19 Section 11–401 and 11–402
20 Annotated Code of Maryland
21 (2007 Volume and 2012 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article – Commercial Law**

25 17–317.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) (1) All funds received under this title, including the proceeds of the
2 sale of abandoned property under § 17–316 of this subtitle, shall be credited by the
3 Administrator to a special fund. The Administrator shall retain in the special fund at
4 the end of each fiscal year, from the proceeds received, an amount not to exceed
5 \$50,000, from which sum the Administrator shall pay any claim allowed under this
6 title.

7 (2) After deducting all costs incurred in administering this title from
8 the remaining net funds the Administrator shall distribute [~~\$500,000~~] **\$3,000,000** to
9 the Maryland Legal Services Corporation [to support the activities of the corporation]
10 **FUND ESTABLISHED UNDER § 11–402 OF THE HUMAN SERVICES ARTICLE.**

11 (3) (i) Subject to subparagraph (ii) of this paragraph, the
12 Administrator shall distribute all unclaimed money from judgments of restitution
13 under Title 11, Subtitle 6 of the Criminal Procedure Article to the State Victims of
14 Crime Fund established under § 11–916 of the Criminal Procedure Article to assist
15 victims of crimes and delinquent acts to protect the victims' rights as provided by law.

16 (ii) If a victim entitled to restitution that has been treated as
17 abandoned property under § 11–614 of the Criminal Procedure Article is located after
18 the money has been distributed under this paragraph, the Administrator shall reduce
19 the next distribution to the State Victims of Crime Fund by the amount recovered by
20 the victim.

21 (4) After making the distributions required under paragraphs (2) and
22 (3) of this subsection, the Administrator shall distribute the remaining net funds not
23 retained under paragraph (1) of this subsection to the General Fund of the State.

24 Article – Human Services

25 11–401.

26 [(a) In the State operating budget or in any supplemental budget that the
27 Governor submits to the General Assembly, the Governor shall appropriate at least
28 \$500,000 each year to the Maryland Legal Services Corporation Fund established
29 under § 11–402 of this subtitle.

30 (b) (1) To support or add to the appropriation under subsection (a) of this
31 section, on July 1 of each year, the Governor may transfer to the Fund up to \$500,000
32 from the portion of abandoned property funds deposited in the General Fund of the
33 State under § 17–317 of the Commercial Law Article.

34 (2) If, after deducting all costs of administering the abandoned
35 property fund, the balance in the portion of abandoned property funds deposited in the
36 General Fund of the State under § 17–317 of the Commercial Law Article is less than

1 \$500,000, only the balance may be transferred in accordance with paragraph (1) of this
2 subsection.

3 (c) Nonstate funds received by the Corporation shall be accounted for and
4 reported as receipts and disbursements separate and distinct from State funds.

5 11-402.

6 (a) There is a Maryland Legal Services Corporation Fund.

7 (b) The Administrative Office of the Courts shall administer the Fund.

8 (c) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of
9 the State Finance and Procurement Article.

10 (d) The Fund consists of:

11 (1) money deposited to the Fund from the surcharge assessed in civil
12 cases under §§ 7-202 and 7-301 of the Courts Article;

13 (2) [money appropriated to the Fund under § 11-401 of this subtitle]
14 **MONEY DISTRIBUTED TO THE FUND UNDER § 17-317 OF THE COMMERCIAL LAW**
15 **ARTICLE;**

16 (3) interest on attorney trust accounts paid to the Fund under §
17 10-303 of the Business Occupations and Professions Article; and

18 (4) investment earnings of the Fund.

19 (e) The Corporation shall use the Fund to provide funding for civil legal
20 services to indigents under this title.

21 (f) The Treasurer shall:

22 (1) invest and reinvest the Fund in the same manner as other State
23 funds; and

24 (2) credit any investment earnings to the Fund and may not charge
25 interest against the Fund if the average daily net cash balance for the month is less
26 than zero.

27 (g) Expenditures from the Fund shall be made in accordance with an
28 appropriation requested by the Judicial Branch of the State government under §
29 7-108 of the State Finance and Procurement Article and approved by the General
30 Assembly in the State budget or by the budget amendment procedure under § 7-208.1
31 of the State Finance and Procurement Article.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 June 1, 2013.

Economic Impact of Civil Legal Services in Maryland

Access to Justice Boosts the State's Economy

NEW FEDERAL DOLLARS

In FY2012, civil legal services organizations secured **\$9.9 million** in federal benefits including food stamps (SNAP), Medicaid/Medicare, SSI, housing, unemployment, veteran's benefits, and TCA/TANF (Temporary Cash Assistance and Temporary Assistance to Needy Families).

OTHER INDIVIDUAL FINANCIAL BENEFITS

Providers secured additional benefits totaling **\$10.7 million** for individual clients in bankruptcy, debt, employment, child and spousal support, and the non-federal share of unemployment and medicare/medicaid benefits.

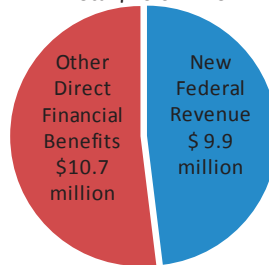
SYSTEMIC ADVOCACY

Through their work on class actions and law reform initiatives, the work of civil legal services providers yielded an additional **\$161 million** in FY2012 to benefit tenants in foreclosure, vulnerable homeowners and low-income persons in need of emergency

Each year, thousands of Marylanders benefit from help provided by the state's civil legal services providers. Their work benefits not only these individuals, but also boosts Maryland's economy.

DIRECT FINANCIAL BENEFITS TO INDIVIDUALS

Direct Financial Benefits From Individual Representation
Total \$20.6 million



Federal Dollars Brought Into Maryland.

SNAP (food stamps)	\$ 81,688
Medicaid/Medicare (fed portion)	\$1,312,399
SSI	\$1,566,362
Medical benefits from SSI	\$529,611
Federal housing benefits	\$5,085,150
Federal unemployment	\$1,256,143
Veteran's benefits	\$58,115
TCA/TANF	\$14,917
TOTAL:	\$ 9,904,385

Other Direct Financial Benefits to Individuals:

Bankruptcy protection	\$4,366,381
Debt collection	\$2,168,974
Employment	\$206,003
Child and spousal support	\$828,694
Unemployment – non-federal share	\$1,360,821
Medicaid/Medicare—non-federal share	\$ 1,842,008
TOTAL:	\$10,772,881

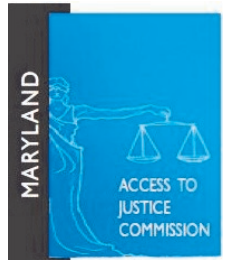
Maryland non-profit civil legal services programs generate

\$190 MILLION PER YEAR

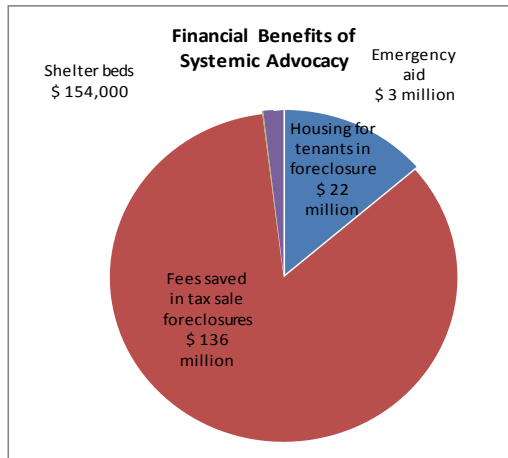
in economic activity, cost savings, and increased productivity as a result of their advocacy.

- ◆ **\$9.9 million** in federal dollars to benefit Maryland residents. These dollars generate at least **\$12.6 million** in economic stimulus.
- ◆ **\$10.7 million** in other direct financial benefits for Marylanders.
- ◆ **\$161 million** as a result of systemic advocacy on behalf of tenants at risk, vulnerable homeowners and low-income persons in need of emergency assistance.
- ◆ **\$882,096** in tax revenue generated by keeping Marylanders in the work force.
- ◆ **\$3.7 million** saved in state expenditures on shelter costs alone by preventing homelessness.
- ◆ **\$1.3 million** saved in health costs and productivity by preventing domestic violence.

*This document is based on **Economic Impact of Civil Legal Services in Maryland**, available from the Maryland Access to Justice Commission at www.mdcourts.gov/mdatjc. The report is based on data provided by only a portion of the state's providers and thus reflects, only a partial picture of the impact these organizations have on Maryland's economy. It is also important to remember that the financial aspects of civil legal aid tell only a part of the story. For many low-income Marylanders, the real benefits of civil legal aid come from the many non-monetary outcomes they achieve with the help of these organizations. For those individual clients, the real benefits may be incalculable.*



Financial Benefits of Systemic Advocacy



Legislative advocacy and systemic action undertaken on behalf of vulnerable Marylanders has yielded important results that have had a positive impact on the State's economy. Several key actions by the Public Justice Center (PJC) and the Homeless Persons Representation (HPRP), both located in Baltimore, have secured millions of dollars in housing benefits and fees saved. These initiatives have had a significant impact during the last several years precisely when many Marylanders were affected by the uptick in foreclosures.

◆ **Fees Saved in Tax Sale Foreclosures.** PJC successfully urged court action to limit the amount of attorney's fees and expenses that Baltimore City

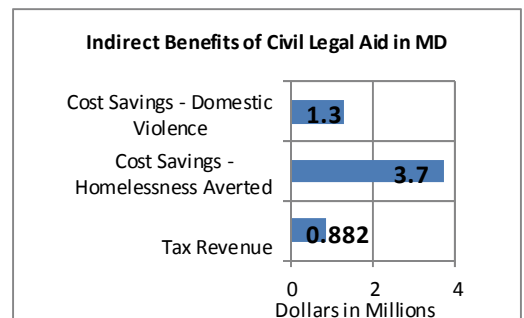
homeowners must pay to redeem their homes after a tax sale foreclosure. The move affected 80,000 tax sales each year since the decision, a savings of **\$136 million** per year.

- ◆ **Tenants in Foreclosure Earn the Right to Stay Additional 90 Days.** A 2009 campaign by PJC resulted in the passage of HB776 and rule amendments that created a right for tenants whose building is in foreclosure to retain their housing for at least 90 days. The benefit affected 5,768 families in 2011 at a value of **\$22 million**.
- ◆ **Additional Shelter Beds.** HPRP and others successfully negotiated with Baltimore City to add 20 additional overflow beds for women, equal access to convalescent care and new rules to protect shelter residents from retaliation, as a result of alleged gender discrimination. Their efforts yielded **\$154,000** annually in additional benefits.

Indirect Benefits—Tax Revenue, Cost Savings to MD

Civil legal aid organizations help Marylanders thrive. In so doing, they save the state millions it would otherwise expend to address homelessness, domestic violence or other problems. In some instances the work of civil legal aid providers keep Marylanders in the work force and increase the state's tax revenue.

- ◆ By addressing workplace issues and helping with expungements, providers kept 376 Marylanders in the workforce, yielding approximately **\$882,096** in state and local tax revenue.
- ◆ Over 2,000 individuals benefited from cases that kept families in their housing, for a savings of **\$3.6 million** in shelter costs alone.
- ◆ Providers helped 2,825 clients obtain protection from domestic violence, saving **\$1.3 million**.



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TAX REVENUE

Non-profit civil legal services providers help clients obtain expungements and address workplace issues, keeping 376 individuals in the workforce. With average incomes of \$19,550, this group generates an average of \$2,346 in state and local tax revenue. The overall impact was an approximately **\$882,096** in state and local coffers in FY2012.

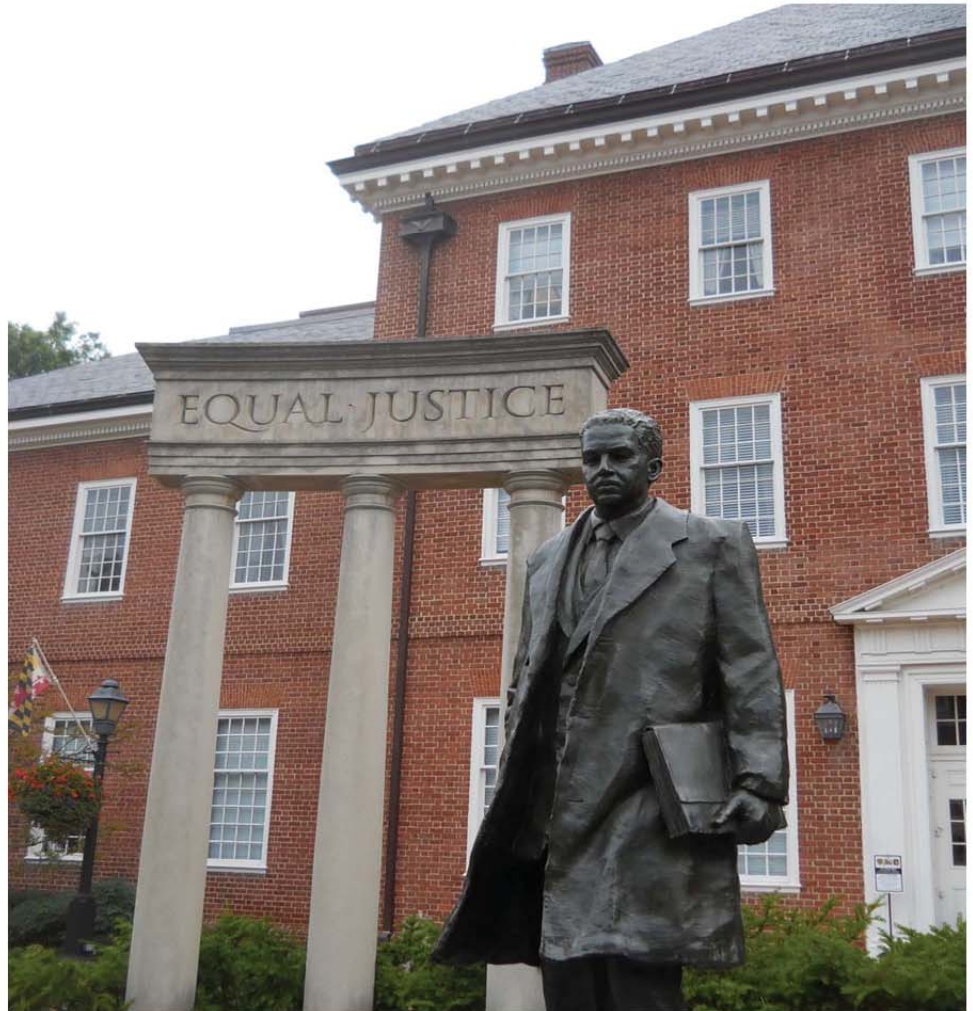
SAVING SHELTER COSTS

By helping 776 individuals and their families (about 2,389 persons) retain housing, providers helped keep approximately 990 individuals out of shelter, saving the state approximately **\$3.6 million** in shelter costs alone.

SAVINGS COSTS ASSOCIATED WITH DV

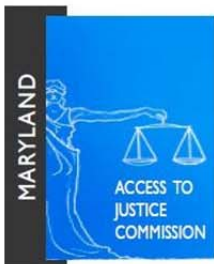
When an individual suffers intimate partner abuse, society also pays the price. By helping 2,825 clients get protection from domestic violence, providers helped save \$633,839 in medical costs and generated \$705,894 in productivity, saving **\$1.3 million**.

ECONOMIC IMPACT OF CIVIL LEGAL SERVICES IN MARYLAND



1/1/2013

Civil Legal Aid in Maryland Brings Economic Benefits to Its Clients and the State



The work of civil legal services programs in Maryland significantly boosts the state's economy each year by bringing in millions of federal dollars, improving the lives of low-income Marylanders, and saving the State millions in expenditures.

Economic Impact of Civil Legal Services in Maryland

CIVIL LEGAL AID IN MARYLAND BRINGS ECONOMIC BENEFITS TO ITS CLIENTS AND THE STATE

ACCESS TO JUSTICE BOOSTS THE STATE'S ECONOMY

Each year, thousands of Marylanders benefit from legal help provided by a small cadre of lawyers and others who staff the State's non-profit legal providers, or who offer pro bono help through one of these organizations. There are 35 legal services programs that receive state funding through the Maryland Legal Services Corporation. Attorneys employed by these providers represent just 0.7% of all Maryland lawyers, yet their impact, and that of the additional attorneys who serve pro bono, is significant. In Fiscal Year 2012, advocacy by Maryland civil legal aid providers:

- Brought **\$9.9 million in federal dollars** into Maryland to benefit state residents. Those dollars translated into at least **\$12.6 million in economic stimulus** for local economies.
- Obtained **\$10.7 million in other direct financial benefits** for Maryland residents.
- Secured **\$161 million per year** as a result of systemic advocacy on behalf of tenants at risk of eviction, vulnerable homeowners and low-income persons in need of emergency assistance.
- Resulted in at least **\$882,096 in tax revenue** by keeping Marylanders in the work force.
- Saved at least **\$3.7 million in state expenditures** on shelter costs alone by preventing homelessness.
- Saved at least **\$1.3 million in health costs and productivity** by preventing domestic violence.

Those dollars represent an even larger boost for the state's economy when taking into account their overall impact on spending. Low-income residents spend a larger percentage of their income on daily expenditures than other individuals. If we take into account the fiscal impact of each federal dollar brought into Maryland, the overall fiscal impact on the state of those dollars is significant. The \$9.9 million in federal monies brought into the state stimulate local economies, generating \$12.6 million in additional consumer expenditures. Access to justice is good for Maryland's economy. Taken together, these gains represent economic stimulus, cost savings and increased productivity for Maryland totaling **\$190 million**.

Maryland civil legal services programs generate \$190 MILLION PER YEAR in economic activity, cost savings, and increased productivity as a result of their advocacy.

Methodology

This report is divided into three parts.

Part One reflects direct financial benefits won for individual clients. The data about direct financial benefits to clients was compiled by just 2 of the State's 35 providers: Maryland Legal Aid and the Homeless Persons Representation Project. Supervising attorneys in each unit or office reviewed case files and compiled data from all cases handled during Fiscal Year 2012 (July 1, 2011 through June 30, 2012) to capture the actual dollars awarded or financial savings achieved as a result of their advocacy. While many of the state's other providers secure direct financial benefits for their clients, their client management systems do not currently track the dollar value of the benefit secured. Maryland Legal Aid has a statewide presence, but its work represents only a portion of the overall work of the state's civil legal services delivery system, which includes 35 providers. The Homeless Persons Representation Project serves individuals who are homeless and at risk of homelessness. If complete data were available from all providers, these figures would be higher.

Part Two quantifies the value of the systemic advocacy work done by only two of the state's legal services providers: the Public Justice Center and the Homeless Persons Representation Project. Their work in several key initiatives has resulted in real economic benefits for thousands of low-income Marylanders. Again, many of the state's other providers engage in systemic advocacy. If data from those organizations were available, these figures would be higher.

Part Three analyzes the indirect benefits from legal aid advocacy. We assessed these benefits using data about social benefits achieved on behalf of individual clients. Benefits we examined included those likely to result in increased tax revenue for the state, and savings in costs associated with homelessness and domestic violence. The data comes from annual reporting provided to the Maryland Legal Services Corporation (MLSC) each year by each of its grantees. This report relies on data from the reporting grantees provided for Fiscal Year 2012.

Part One: Direct Financial Benefits for Individual Clients

FEDERAL REVENUE BROUGHT INTO MARYLAND

NEW FEDERAL REVENUE BROUGHT INTO MARYLAND BY MARYLAND LEGAL PROVIDERS

Food stamp (SNAP) benefits	\$ 81,688
Medicaid / Medicare benefits – federal share	\$ 1,312,399
SSI benefits	\$ 1,566,362
Medical benefits associated with SSI – federal share	\$ 529,611
Federal housing benefits	\$ 5,085,150
Federal unemployment insurance	\$ 1,256,143
Veteran's Benefits	\$ 58,115
Federal TCA/TANF benefits	\$ 14,917
Total Federal Dollars Brought into Maryland	\$ 9,904,385

Out of Maryland's 35 civil legal services providers, Maryland Legal Aid and the Homeless Persons Representation Project alone bring nearly \$10 million per year into the State in the form of direct federal benefits to low-income Marylanders. These organizations were able to provide the dollar value of benefits secured.

- **FOOD STAMPS (SNAP).** Maryland Legal Aid and HPRP handled food stamp matters on behalf of 49 individuals, benefitting 27 families. The above figure includes the amount of the monthly benefit secured (\$ 5,398) X 12 months for a total annual food stamp benefit of \$64,776. Coupled with additional lump sum benefits secured in the amount of \$16,912, the total impact of civil legal aid efforts resulted in \$81,688 new federal dollars to support low-income Marylanders.
- **MEDICAID/MEDICARE.** Maryland Legal Aid represented 77 clients in Medicaid/Medicare matters. The above figure includes the federal share of the annual value of the benefits obtained. The total value of benefits was \$2,624,799. The federal share of Medicaid costs is 50%, except for those provided for children, where the federal share is 65%. Most of the beneficiaries of Legal Aid's Medicaid/Medicare cases were adults, so the costs here reflect 50% of all benefits secured, or \$1,312,399.
- **SSI.** Maryland Legal Aid secured SSI benefits for 127 individuals, representing 53 families. The above figure includes the value of monthly benefits secured (\$49,106) X 12 months for a total annual benefit of \$ 589,272. Coupled with additional lump sum benefits secured in the amount of \$977,090, Maryland Legal Aid's efforts resulted in \$1,566,362 in new federal SSI dollars to support

Maryland residents. For these cases, the Social Security Administration estimates that recipients receive benefits for an average of 9.7 years, while SSDI recipients receive benefits for an average of 10.5 years. For this analysis, \$589,272 in first year benefits were identified with these claims. Conservatively, without adjusting for inflation, over 9.7 years, these awards translate into \$5,715,938 in lifetime benefits. This report does not take into account the ongoing SSI benefits reaped by prior legal services clients for whom benefits were secured in prior years.

- **SSI-RELATED MEDICAL BENEFITS.** Maryland Legal Aid clients who received SSI also became eligible for Medicaid. The figure provided here includes the annual healthcare benefit for all individuals who became eligible for Medicaid as a result of securing SSI benefits. The projected annual value of Medicaid for disabled adults is \$21,590, resulting in total annualized benefits of \$1,059,222. The federal share of these benefits is 50% so the amount of new federal dollars coming into Maryland is \$529,611.¹
- **FEDERAL HOUSING BENEFITS.** Maryland Legal Aid's public housing cases benefitted 726 individuals from 334 families in Fiscal Year 2012. The above figure includes the monthly value to tenants who avoided eviction or a termination of a federal housing subsidy, multiplied by 12 to arrive at the annual value of the benefit, plus any monetary award or forgiven rent. This translated into \$2,541,290 in Section 8 subsidies, and \$2,219,992 in other public housing subsidies. In addition, the Homeless Persons Representation Project secured \$323,868 in annualized federal housing benefits. These two organizations alone brought a total of \$5,085,150 in federal housing dollars into the state. Benefits were based on the difference between the market rate and the tenant contribution.
- **UNEMPLOYMENT INSURANCE.** Maryland Legal Aid secured \$2,616,965 in unemployment benefits for 230 clients in Fiscal Year 2012. The federal share of such benefits was 48% during calendar year 2011,² totaling \$1,256,143.
- **VETERAN'S BENEFITS.** During Fiscal Year 2012, HPRP secured veteran's benefits for two individuals with an annualized value of \$34,752 and lump sum benefits totaling \$23,363 for a total benefit of \$58,115.
- **FEDERAL TCA/TANF BENEFITS.** HPRP secured Temporary Cash Assistance (TCA)/Temporary Assistance to Needy Families (TANF) on behalf of 19 individuals in lump sum amounts totaling \$16,250. The federal share of TANF benefits is 91.8%, yielding \$14,917 in new federal dollars for Maryland recipients.³

Federal Dollars Stimulate the State's Economy

The \$9.9 million dollars in federal spending that Maryland Legal Aid and HPRP brought into Maryland has a larger economic impact. Every additional dollar secured for Maryland residents is spent by those individuals on housing, food, clothing, and other necessities. Each federal dollar coming into our state as a result of the work of the state's legal services providers circulates through local economies, benefitting the community at large.

¹ Fiscal Year 2012 data provided by Maryland Legal Aid.

² OFFICE OF LEGISLATIVE AUDITS, DEP'T OF LABOR, LICENSING & REGULATION – DIV. OF UNEMPLOYMENT INS. AUDIT REPORT (Sept. 2012), available at www.ola.state.md.us/Reports/Fiscal%20Compliance/DLLR-DUI12.pdf (last visited Nov. 9, 2012).

³ U.S. DEP'T OF HEALTH & HUMAN SERVS., MARYLAND: FEDERAL TANF AND STATE MOE EXPENDITURES SUMMARY BY ACF-196 SPENDING CATEGORY (FY 2011), available at <http://archive.acf.hhs.gov/programs/ofa/data/2011fin/states/maryland.pdf> (information on the federal share in Maryland).

HOW ADDITIONAL FEDERAL DOLLARS BOOST LOCAL ECONOMIES

Source	New Dollars Secured by MD Legal Services	Multiplier / Reference	Economic Impact on Local Economies
Food stamp (SNAP) Benefits	\$ 81,688	1.79 www.ers.usda.gov/media/134117/err103_1_.pdf	\$ 146,221
Medicaid / Medicare Benefits – federal share	\$ 1,312,399	2.23 www.sphhs.gwu.edu/departments/healthpolicy/dhp_publications/pub_uploads/dhpPublication_2F941D82-5056-9D20-3DD55A0250BDAB46.pdf	\$ 2,926,649
SSI Benefits	\$ 1,566,362	1.8 www.dailyonder.com/economic-impact-social-security/2011/12/18/3649	\$ 2,819,451
Medical Benefits associated with SSI – federal share	\$ 529,611	2.23 http://www.sphhs.gwu.edu/departments/healthpolicy/dhp_publications/pub_uploads/dhpPublication_2F941D82-5056-9D20-3DD55A0250BDAB46.pdf	\$ 1,181,032
Federal housing benefit	\$ 5,085,150	0.7 www.dhcd.maryland.gov/Website/About/PublicInfo/Publications/documents/FY2011_Economic_Impact.pdf [70% of housing subsidies make their way to the local economy.]	\$ 3,559,605
Federal unemployment insurance	\$ 1,256,143	1.55 www.cbpp.org/cms/index.cfm?fa=view&id=1466 .	\$ 1,947,021
Veteran's benefits	\$ 58,115	1.5 In the absence of direct research on VA benefits, we used the 1.5 multiplier to reflect the impact of income support payments under the ARRA, as estimated by the Council of Economic Advisors. www.whitehouse.gov/sites/default/files/cea_5th_arra_report.pdf	\$ 87,172
TCA/TANF	\$ 14,917	1.5 In the absence of direct research on TCA/TANF, we used the 1.5 multiplier to reflect the impact of income support payments under the ARRA, as estimated by the Council of Economic Advisors. www.whitehouse.gov/sites/default/files/cea_5th_arra_report.pdf	\$ 22,375
Total Economic Impact of Federal Dollars Brought Into Maryland by Legal Services			\$12,684,526

OTHER FINANCIAL BENEFITS SECURED FOR LOW-INCOME MARYLANDERS

OTHER FINANCIAL BENEFITS SECURED FOR LOW-INCOME MARYLANDERS

Bankruptcy Protection	\$ 4,366,381
Debt Collection	\$ 2,168,974
Employment	\$ 206,003
Child and Spousal Support	\$ 828,694
Unemployment – non-federal share	\$ 1,360,821
Medicaid / Medicare – non-federal share	\$ 1,842,008
Total	\$ 10,772,881

Maryland Legal Aid alone secured an additional \$10.77 million per year in direct financial benefits for low-income Marylanders.

- **BANKRUPTCY PROTECTION.** During Fiscal Year 2012 Maryland Legal Aid advocates aided clients seeking bankruptcy protection. Direct financial benefits to clients included the discharge of unsecured debts (\$4,293,022) and other funds awarded in bankruptcy proceedings (\$73,359).
- **DEBT COLLECTION.** Includes monthly wage and asset garnishments avoided (\$131,915) X 12 months to determine the annual impact of garnishments avoided, plus any judgments successfully defended against, or cases dismissed as the result of advocacy on behalf of low-income defendants in debt actions. Lump sum benefits equaled \$585,994 resulting in total benefits to low-income clients of \$2,168,974.
- **EMPLOYMENT.** Includes \$173,603 in wages and back pay awarded to legal services clients, in addition to the annual value of jobs reinstated (monthly gross wages of \$2,700 X 12 months) totaling \$32,400.
- **CHILD AND SPOUSAL SUPPORT.** Low-income families can be less dependent on federal and state assistance when parents provide adequate financial support for their children and former partners, and when the amount of support is properly adjusted to family income. Maryland legal services providers helped their clients obtain the child and spousal support to which they were entitled. Providers helped clients establish monthly child support orders totaling \$40,003 for an annual benefit of \$480,036. Advocates helped other clients secure downward modifications, saving them \$4,221 in monthly support payments for a total annual benefit of \$50,652. Advocates helped others secure spousal support payments of \$37,036 and other lump sum awards in the amount of \$260,970. The total impact of legal aid advocacy in family law resulted in a benefit of \$828,694 for their low-income clients.

- **UNEMPLOYMENT INSURANCE.** Maryland Legal Aid secured \$2,616,965 in unemployment benefits for its clients. The non-federal contribution to those benefits in Calendar Year 2011 was 52%, totaling \$1,360,821.⁴
- **MEDICAID/MEDICARE.** Includes the non-federal share of the annual value of the benefit obtained on behalf of 77 clients of Maryland Legal Aid plus the non-federal value of SSI-related Medicare. The total value of benefits was \$1,842,008 (\$1,312,399 Medicaid appeals plus \$529,609 in SSI-related Medicaid).

Part Two: Economic Impact of Systemic Advocacy

SYSTEMIC ADVOCACY PRESERVES HOUSING AND RESOURCES FOR VULNERABLE FAMILIES

Legislative advocacy and systemic action undertaken on behalf of vulnerable Marylanders has yielded important results that have had a positive impact on the State's economy. Several key actions by the Public Justice Center (PJC) and the Homeless Persons Representation Project (HPRP), both located in Baltimore, have secured millions of dollars in housing benefits and in savings established by limiting the amount attorneys could charge for tax sale foreclosures. These initiatives have had a significant impact during the last several years precisely when many Marylanders were affected by the uptick in foreclosures.

Tenants in Foreclosure Legislative and Rules Changes Yield \$22 Million Value of Secure Housing

In 2009, the Public Justice Center led a policy advocacy campaign to give tenants who are being evicted because their landlord is in foreclosure new protections under Maryland law. As the result of the Maryland General Assembly passing House Bill 776 and the Rules Committee of the Court of Appeals of Maryland amending Maryland Rule 14-102, Maryland tenants were, for the first time, given the right to stay in their rental homes until the end of their lease or at least 90 days after the property was transferred to a foreclosure purchaser. Approximately 40% of families being evicted are tenants rather than homeowners. These policy changes provided at least an additional 3 months of secure housing to 5,768 Maryland families in 2011, at an approximate value to these tenants of \$22 million dollars. This value will be repeated each year the foreclosure crisis continues.⁵

⁴ *Id.*

⁵ In 2011, there were 14,421 foreclosure filings in Maryland. Of these filings, approximately 40% are against rental properties. Thus approximately 5,768 Maryland tenant families were affected by this rule change during 2011. The average Maryland rent for a two bedroom apartment in 2011 was \$1287 per month. (See NAT'L LOW INCOME HOUSING COAL., OUT OF REACH 2011 (2011), available at www.nlihc.org). Thus the value of stable housing for an additional 3 months for 5,768 families is \$22,270,248 in 2011. It should be noted these figures are significantly lower than in the last few years. In 2009 there were 43,248 foreclosure filings in Maryland, and in 2010 there were 42,446 foreclosures. During those years, PJC's efforts resulted in housing values benefiting tenants in the amount of \$57,401,400 in 2009 and \$64,738,639 in 2010.

New Limits on Attorney's Fees for Tax Sale Foreclosures Save Homeowners \$136 Million per Year

On December 12, 2007, the Honorable Evelyn Omega Cannon, Circuit Court for Baltimore City, issued a lengthy opinion setting significant limits on attorney's fees and expenses that Baltimore City homeowners must pay to redeem their homes after a tax sale. The Public Justice Center had urged the Court to do just that in an amicus brief filed at the request of the Court on September 24, 2007. In the approximately 80,000 tax sales in Baltimore City that year, attorneys were typically charging \$2,000-\$4,000 for their services, even though they were routine cases processed largely by non-attorneys. The Court determined that a reasonable attorney's fee for such a case was \$1,300, adopting the analysis argued by PJC. As a result, Maryland homeowners are saving \$136 million every year since this decision.⁶

Advocates Successfully Obtained Increased Access to Shelter Beds for Homeless Women, Preserving Emergency Housing and Well-being

In October 2011, the Homeless Persons Representation Project, together with co-counsel from the ACLU of Maryland and Crowell & Moring, LLP, alleged the City of Baltimore had engaged in gender discrimination by failing to provide sufficient emergency overflow shelter accommodations for women. The convalescent care facility provided overflow beds for men only because it did not have facilities sufficient to offer services to both men and women. As a result of negotiations, the City agreed to add 20 additional overflow beds for women, equal access to the convalescent care facility, and new rules at the 24-hour shelter to protect residents against retaliation. The shelter beds alone will accommodate an average of 2 homeless women per year, per bed for a total emergency housing value of \$154,000.⁷

Advocacy to Improve the Timeliness of Food Stamps and Emergency Benefits Yields an Additional \$3 Million for Marylanders in Need

During the past year, the Public Justice Center, the Homeless Persons Representation Project, Kirkland & Ellis, and the National Center for Law and Economic Justice continued their work to improve the delivery of food stamps and other emergency benefits. A case filed by these counsel resulted in an injunction to require the State to make timely eligibility decisions on safety net programs. Prior to the lawsuit, only 80% of emergency applications were processed within the 30-day legal limit. In June 2012, the injunction was dissolved when the Department of Human Resources showed it had processed approximately 98% of applications on time for the previous 19 months.⁸ During Fiscal Year 2012, the Maryland Department of Human Resources approved 23,168 applications for food stamps.⁹ If compliance increased from 80% to 98%, that means 18% of

⁶ A decrease in attorney fees owed from an average of \$3,000 to \$1,300 multiplied by 80,000 tax sales per year = \$ 136,000,000.00.

⁷ See *infra* p. 12 (shelter cost estimates).

⁸ Yvonne Wenger, *Food Stamp Court Battle Ends as State Steps Up On-Time Record*, THE BALT. SUN (June 15, 2012).

⁹ MD DEP'T OF HUMAN RES., TEMPORARY CASH ASSISTANCE (2012), available at www.dhr.state.md.us/documents/Data%20and%20Reports/FIA/Statistical-Reports-2012.pdf.

recipients, or 4,170 families received those benefits sooner. If those families are receiving one extra month of benefit as a result, that translates into an additional \$1,095,625 in federal SNAP dollars awarded to Maryland residents during the year.¹⁰

Similarly, during Fiscal Year 2012, the Maryland Department of Human Resources approved 17,319 applications for medical assistance.¹¹ If 18% or 3,117 individuals now received one additional month of Medicaid, that translates into a financial benefit of \$1,907,604.¹²

\$1,095,625 in food stamps + \$1,907,604 in Medicaid = \$3,003,229 in emergency aid.

¹⁰ Average monthly benefit per household in 2011 was \$262.74. USDA FOOD & NUTRITION SERV., SUPPLEMENTAL NUTRITION ASSISTANCE PLAN: AVERAGE MONTHLY BENEFIT PER HOUSEHOLD (Nov. 9, 2012), [www.fns.usda.gov/pd/19SNAPavg\\$HH.htm](http://www.fns.usda.gov/pd/19SNAPavg$HH.htm).

¹¹ MD DEP'T OF HUMAN RES., TEMPORARY CASH ASSISTANCE (2012), available at www.dhr.state.md.us/documents/Data%20and%20Reports/FIA/Statistical-Reports-2012.pdf.

¹² Average annual payments per enrollee equal \$7,352 for all recipients. HENRY J. KAISER FAMILY FOUND., MARYLAND: MEDICAID PAYMENTS PER ENROLLEE (2009), available at www.statehealthfacts.org/profileind.jsp?cmprgn=1&cat=4&rgn=22&ind=183&sub=47. That equates to an average \$612 monthly benefit per recipient, or \$1,907,604 for one additional month's worth of coverage for 3,117 individuals.

Part Three: Indirect Economic Benefits Resulting in Revenue, Savings for Maryland

LEGAL SERVICES PROGRAMS BOOST TAX REVENUE BY KEEPING RESIDENTS IN THE WORKFORCE

During Fiscal Year 2012, MLSC grantees aided Marylanders with legal issues that arose in the workplace. A number of those services kept workers employed or ensured that they would remain employable. These benefits to Maryland workers included efforts to redress discrimination, avoid or redress wrongful discharge, obtain an expungement of a criminal record, and resolve on-the-job issues including safety or grievance procedures.

BENEFITS THAT KEPT MARYLANDERS IN THE WORKFORCE

Overcame, or obtained redress for, job discrimination	12
Avoided or obtained redress for wrongful discharge	2
Delayed discharge	1
Obtained expungement of criminal record	272
Resolved on-the-job issues such as safety or grievance procedures	89
Total	376

The lowest 40% of earners pay approximately 12% of their income in state and local taxes.¹³ With average incomes of \$19,550, this group generates an average of \$2,346 per person in additional state and local tax revenue. By helping keep 376 individuals in the workforce, Maryland legal services providers helped generate additional state and local tax revenues of around \$882,096 in Fiscal Year 2012.

376 workers X \$19,550 average income X 12% = \$882,096 in state/local tax revenue.

¹³ *Incomes and Federal, State & Local Taxes*, CITIZENS FOR TAX JUSTICE www.ctj.org/images/taxday2012table.jpg (last visited Nov. 15, 2012) (citing *Tax Model*, INST. ON TAXATION & ECON. POLICY (Apr. 2012)).

CIVIL LEGAL SERVICES SAVE STATE DOLLARS BY PREVENTING HOMELESSNESS AND DOMESTIC VIOLENCE

Maryland's civil legal services providers help the state's residents meet core needs including shelter and safety. The advocacy that legal services providers undertake on behalf of their clients leads to many positive outcomes, not only for their clients but also for the communities in which those clients reside, and for the state as a whole. This analysis examines only the fiscal benefits that derive from that work. Those benefits are significant. When clients are able to avoid homelessness, the State saves money it would otherwise spend to provide shelter, support, and other services for that individual and his or her family. When domestic abuse is averted and a potential victim protected, that individual and his or her family can resume their lives free from the threat of violence. Not only do those individuals become more productive at work and in school, but the State avoids costs associated with violence and its aftermath. This analysis reflects some of the most obvious fiscal savings associated with the work legal aid advocates do to preserve housing and address domestic violence.

Preserving Housing Saves the Costs of Addressing Homelessness

The following chart reflects the benefits that MLSC grantees secured across the state enabling individuals to preserve existing housing or secure new housing. These outcomes may prevent clients and their families from entering a homeless shelter.

BENEFITS THAT HELPED MARYLANDERS PRESERVE HOUSING

<i>Benefit</i>	<i>Individuals Represented</i>	<i>Persons Directly Affected (total family or household size)</i>
Prevented eviction from public housing	205	475
Prevented eviction from other housing	41	125
Prevented termination or denial of housing subsidy	124	272
Delayed eviction providing time to seek alternative housing	125	321
Avoided or delayed foreclosure or other loss of home	405	1196
Total	776	2,389

How many of these individuals would otherwise have become homeless? Testimony from researchers in New York suggest that an average of 40.2% of evictees and individuals in foreclosure end up taking advantage of homeless shelters.¹⁴ This suggests that 311 families or 960 individuals likely avoided using a homeless shelter because they received help from legal services.

960 persons X 154 nights X \$25 per night = \$3,696,000 in shelter costs avoided.

What would it cost to provide emergency shelter and transitional housing for these individuals? “In FY2005, approximately \$35 million was spent on shelter operations alone, with an average bednight costing approximately \$25 per person.”¹⁵ In FY2008, the average length of stay in emergency shelter was 27 nights, with 127 nights in transitional housing. If individuals move from emergency shelter to transitional housing as suggested by state housing officials, the typical cost for a homeless individual is \$3,850. That translates to \$3,696,000 dollars in shelter costs for the 960 individuals who avoided homelessness as a result of legal aid advocacy. This of course significantly underestimates the broader costs of homelessness, which include increased risk of hospitalizations, incarceration, and higher dependence on other services. In one 2009 study, researchers found that the typical public costs of homelessness were about \$35,000 per year per person.¹⁶

Protecting the Vulnerable from Domestic Violence Saves Public Dollars in Related Health Costs and Increased Productivity

In FY2012, Maryland legal services providers helped 2,825 clients obtain protection from domestic violence. By helping families live free of violence, our state’s legal services providers save the State the high cost of domestic abuse, including medical care for injured victims. A number of studies have tried to extrapolate the impact of obtaining a protective order on the risk of continued violence. In one recent study, half of those who obtained a protective order reported no violent incidences after the order was issued. The other half of individuals in the study reported significantly reduced violence and abuse, and a reduced severity of those incidences.¹⁷ An earlier study of the costs of intimate partner violence, produced by the Centers for Disease Control & Prevention, noted that women who were physically assaulted by an intimate partner in the previous

¹⁴ “Data showed that about 43 percent of the evictees ended up using a shelter in New York City. The number is different for suburban areas and Upstate New York, 13.6 and 32 percent respectively.” In written testimony, Dr. Singh indicated a statewide average over all regions of 40.2 percent. Testimony of Geeta Singh, Ph.D., at the NY Chief Judge’s Hearing on Civil Legal Services (Sept. 26, 2011), available at www.nlada.org/DMS/Documents/1328113081.49/NY%20report%202011%20Appendices.pdf.

¹⁵ MD. DEP’T OF HUMAN RES., MARYLAND 10-YEAR PLAN TO END HOMELESSNESS (Dec. 2005), available at www.msa.md.gov/megafile/msa/speccol/sc5300/sc5339/000113/004000/004999/unrestricted/20071852e.pdf.

¹⁶ Shaun Donovan, *HUD Secretary Says a Homeless Person Costs Taxpayers \$40,000 a Year*, POLITIFACT (Mar. 12, 2012) available at www.politifact.com/truth-o-meter/statements/2012/mar/12/shaun-donovan/hud-secretary-says-homeless-person-costs-taxpayers.

¹⁷ T.K. LOGAN AND ROBERT WALKER, CARSEY INST., CIVIL PROTECTIVE ORDERS EFFECTIVE IN STOPPING OR REDUCING PARTNER VIOLENCE POLICY BRIEF NO. 18 (SPRING 2011), available at www.carseyinstitute.unh.edu/publications/1B-Logan-Civil-Protective-Order.pdf.

12 months experienced an average of 3.4 separate assaults. This suggests that legal aid advocacy in Maryland helped avert at least 4,802 assaults.¹⁸

2,825 clients X 0.5 report no incidents X 3.4 assaults per year = 4,802 assaults avoided

How much does this represent in savings? The same DHHS study reported that 41.5% of physical assault victims were injured as a result of intimate partner violence. Of those, 31% received some type of medical care. The average cost for medical and mental health care resulting from a physical assault was \$816 in 2003.¹⁹ Converting that amount into 2012 dollars yields a cost of \$1,026 per injury.

4,802 assaults X .415 injury rate X .31 medical care rate X \$1,026 = \$633,839 saved

In addition to medical costs, domestic violence reduces the productivity of those affected. Helping victims obtain protection yields additional financial benefits for the state. The DHHS report noted that physical assault victims lost an average of \$93 dollars in daily earnings and \$24 in the value of household work.²⁰ Adjusting for 2012 dollars, physical assault victims lose an average of \$117 in daily earnings and \$30 in the value of household work. By helping avert 4,802 incidences of assault, the efforts of the state's legal services providers can be calculated as a productivity gain or savings of \$705,894.

4,802 assaults X \$147 in productivity = \$ 705,894 in productivity gains

¹⁸ DEP'T OF HEALTH & HUMAN SERVS., CTRS. FOR DISEASE CONTROL & PREV., NAT'L CTR. FOR INJURY PREV. & CONTROL, COSTS OF INTIMATE PARTNER VIOLENCE AGAINST WOMEN IN THE UNITED STATES (Mar. 2003), available at www.cdc.gov/ncipc/pub-res/ipv_cost/ipvbook-final-feb18.pdf.

¹⁹ *Id.*

²⁰ *Id.*

Summary

This study analyzes the economic impact of the work done by civil legal aid providers in Maryland. It examines the economic impact of the civil legal services delivery system through several lenses, by looking for:

- Direct financial benefits secured for individual clients and the larger impact those dollars had on the economy as a whole;
- The economic impact of systemic advocacy that benefited large groups of low-income Marylanders as the result of a single case, legislative or rule-making initiative; and
- The indirect financial benefits that accrued to the State as the result of cases handled by civil legal aid providers which may have kept individuals in the workforce or averted homelessness or domestic violence.

Legal services providers routinely track data to understand the social benefits and case outcomes achieved for their clients. Little data is available about the actual dollars secured on behalf of clients. For this reason, the data provided in the first section of the report on direct financial benefits reflects only a portion of the overall impact of civil legal aid providers in the state as it relies on the case file data maintained by only two providers, Maryland Legal Aid and HPRP. Similarly, while a number of organizations engage in impact work, Part Two of this document reflects only four seminal initiatives undertaken by the Public Justice Center and HPRP. As a result, this report reflects only a portion of the overall fiscal impact of the work of Maryland's civil legal services providers.

Even so, these case outcomes and social benefits are impressive achievements. The direct, indirect, and systemic benefits secure \$190 million per year in increased economic activity, cost savings, and productivity for the state of Maryland.

Finally, the financial aspects of civil legal aid tell only a part of the story. For many low-income Marylanders, the real benefits of civil legal aid come from the many non-monetary outcomes they achieve with the help of a civil legal services organization. For those individual clients, the real benefits may be incalculable.

HOUSE BILL 130

D3

3lr1321
CF 3lr1320

By: **Chair, Judiciary Committee (By Request – Chief Judge, Court of Appeals)**

Introduced and read first time: January 17, 2013

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Actions – Award of Attorney’s Fees and Expenses**

3 FOR the purpose of authorizing a court to award a prevailing party reasonable
4 attorney’s fees and expenses in certain civil actions; requiring a court to
5 consider certain factors in determining whether to make a certain award to a
6 prevailing plaintiff; authorizing a court to award attorney’s fees to a prevailing
7 defendant only under certain circumstances; establishing the method of
8 calculating certain awards of attorney’s fees; establishing that a local
9 government employee shall be fully liable for a certain award of attorney’s fees
10 and expenses in a certain action under the Local Government Tort Claims Act;
11 establishing that the limits on the liability of a local government under the
12 Local Government Tort Claims Act do not include a certain award of attorney’s
13 fees and expenses; establishing that the limit on the liability of the State under
14 the Maryland Tort Claims Act does not include a certain award of attorney’s
15 fees and expenses; establishing that certain limits on attorney’s fees under the
16 Maryland Tort Claims Act do not apply to a certain award of attorney’s fees and
17 expenses; defining a certain term; providing for the application of this Act; and
18 generally relating to awarding attorney’s fees and expenses in certain actions.

19 BY adding to

20 Article – Courts and Judicial Proceedings

21 Section 3–1901 and 3–1902, to be under the new subtitle “Subtitle 19. Award of
22 Attorney’s Fees and Expenses in Civil Actions”

23 Annotated Code of Maryland

24 (2006 Replacement Volume and 2012 Supplement)

25 BY repealing and reenacting, with amendments,

26 Article – Courts and Judicial Proceedings

27 Section 5–302(b)(2)(i) and 5–303(a)

28 Annotated Code of Maryland

29 (2006 Replacement Volume and 2012 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Article – State Government
3 Section 12–104(a)(2) and 12–109
4 Annotated Code of Maryland
5 (2009 Replacement Volume and 2012 Supplement)

6 Preamble

7 WHEREAS, There are now more than half a million Marylanders living at or
8 near the federal poverty level; and

9 WHEREAS, The legal problems faced by low-income Marylanders are more
10 likely to involve low monetary claims, which make it difficult or impossible for them to
11 attract counsel because the means are not available to compensate an attorney from
12 the proceeds; and

13 WHEREAS, There is no provision in Maryland law that permits an award of
14 attorney’s fees to individuals asserting a State constitutional claim, which means that
15 many Marylanders are unable to assert their rights under the State constitution for
16 lack of counsel, because these claims are often for injunctive or nonmonetary relief
17 and, without a monetary award, there are no funds with which to pay an attorney; and

18 WHEREAS, A law that provides for an award of attorney’s fees to a prevailing
19 party would permit litigants in cases involving low or nonmonetary relief to find
20 attorneys to represent them, provided their cases have merit; and

21 WHEREAS, Such provisions can be a powerful tool for promoting access to
22 justice, and they do so in a way that does not require any additional expenditure of
23 public funds, by creating incentives for private attorneys to accept clients with
24 meritorious claims; and

25 WHEREAS, Such provisions permit aggrieved parties to be “made whole” by
26 ensuring that they do not have to pay for their legal representation from the
27 compensation they were awarded; and

28 WHEREAS, Such provisions permit individual citizens to enforce rights
29 protected by law in a manner that has a larger social benefit, reducing the need for
30 State action and expenditure to enforce the law; and

31 WHEREAS, The purpose of such provisions is not to benefit private attorneys,
32 but to promote access to legal representation for individuals who are unable to retain
33 counsel, despite having meritorious claims, in case types that legal aid organizations
34 are not able to accept because of statutory or funding restrictions; and

35 WHEREAS, When large segments of Maryland’s population are denied effective
36 access to the justice system and are unable to assert and defend effectively important

1 civil legal rights and prerogatives, public trust and confidence in the justice system is
2 placed in jeopardy; now, therefore,

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
4 MARYLAND, That the Laws of Maryland read as follows:

5 **Article – Courts and Judicial Proceedings**

6 **SUBTITLE 19. AWARD OF ATTORNEY’S FEES AND EXPENSES IN CIVIL ACTIONS.**

7 **3–1901.**

8 (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE COURT
9 MAY AWARD A PREVAILING PARTY REASONABLE ATTORNEY’S FEES AND
10 EXPENSES IN ANY CIVIL ACTION:

11 (1) TO ENFORCE A RIGHT SECURED BY THE MARYLAND
12 CONSTITUTION OR DECLARATION OF RIGHTS; OR

13 (2) THAT HAS RESULTED IN THE ENFORCEMENT OF AN
14 IMPORTANT RIGHT AFFECTING THE PUBLIC INTEREST.

15 (B) (1) IN THIS SUBSECTION, “PREVAILING PLAINTIFF” INCLUDES
16 ONE WHOSE LITIGATION WHOLLY OR SUBSTANTIALLY ACHIEVED THE DESIRED
17 RESULT BY BRINGING ABOUT A VOLUNTARY CHANGE IN THE CONDUCT OF THE
18 DEFENDANT.

19 (2) IN DETERMINING WHETHER TO MAKE AN AWARD TO A
20 PREVAILING PLAINTIFF UNDER SUBSECTION (A)(2) OF THIS SECTION, THE
21 COURT SHALL CONSIDER:

22 (I) WHETHER A SIGNIFICANT BENEFIT HAS BEEN
23 CONFERRED ON THE GENERAL PUBLIC OR A LARGE CLASS OF PERSONS;

24 (II) THE NECESSITY AND FINANCIAL BURDEN OF PRIVATE
25 ENFORCEMENT; AND

26 (III) WHETHER PAYMENT OF ATTORNEY’S FEES AND
27 EXPENSES OUT OF THE RECOVERY, IF ANY, WOULD BE CONTRARY TO THE
28 INTERESTS OF JUSTICE.

29 (C) THE COURT MAY AWARD ATTORNEY’S FEES TO A PREVAILING
30 DEFENDANT ONLY ON A FINDING THAT THE ACTION BROUGHT BY THE
31 PLAINTIFF WAS FRIVOLOUS.

1 **3-1902.**

2 **FOR PURPOSES OF THIS SUBTITLE OR ANY OTHER STATE STATUTE**
3 **AUTHORIZING AN AWARD OF REASONABLE ATTORNEY'S FEES TO A PREVAILING**
4 **PARTY, THE COURT SHALL DETERMINE THE AMOUNT OF AN AWARD OF**
5 **ATTORNEY'S FEES BY:**

6 **(1) MULTIPLYING THE NUMBER OF HOURS REASONABLY**
7 **EXPENDED BY A REASONABLE HOURLY RATE; AND**

8 **(2) DETERMINING WHETHER ANY ADJUSTMENT SHOULD BE MADE**
9 **TO THE AMOUNT CALCULATED UNDER ITEM (1) OF THIS SECTION, AFTER**
10 **CONSIDERING:**

11 **(I) THE TIME AND LABOR REQUIRED;**

12 **(II) THE NOVELTY AND DIFFICULTY OF THE QUESTIONS;**

13 **(III) THE SKILL REQUIRED TO PERFORM THE LEGAL**
14 **SERVICE PROPERLY;**

15 **(IV) WHETHER ACCEPTANCE OF THE CASE PRECLUDED**
16 **OTHER EMPLOYMENT;**

17 **(V) THE CUSTOMARY FEE FOR SIMILAR WORK IN THE**
18 **COMMUNITY;**

19 **(VI) ANY TIME LIMITATIONS IMPOSED BY THE CLIENT OR**
20 **CIRCUMSTANCES;**

21 **(VII) THE AMOUNT INVOLVED AND THE RESULTS OBTAINED;**

22 **(VIII) THE UNDESIRABILITY OF THE CASE;**

23 **(IX) THE NATURE AND LENGTH OF THE PROFESSIONAL**
24 **RELATIONSHIP WITH THE CLIENT; AND**

25 **(X) AWARDS IN SIMILAR CASES.**

26 **5-302.**

1 (b) (2) (i) [An employee shall be fully liable for all damages awarded
2 in] **IN** an action in which it is found that [the] **AN** employee acted with actual malice,
3 **THE EMPLOYEE SHALL BE FULLY LIABLE FOR:**

4 **1. ALL DAMAGES AWARDED IN THE ACTION; AND**

5 **2. ANY AWARD OF ATTORNEY'S FEES AND EXPENSES**
6 **UNDER § 3-1901 OF THIS ARTICLE.**

7 5-303.

8 (a) (1) Subject to paragraph (2) of this subsection, the liability of a local
9 government may not exceed \$200,000 per an individual claim, and \$500,000 per total
10 claims that arise from the same occurrence for damages resulting from tortious acts or
11 omissions, or liability arising under subsection (b) of this section and indemnification
12 under subsection (c) of this section.

13 (2) The limits on liability provided under paragraph (1) of this
14 subsection do not include interest accrued on a judgment **OR ANY AWARD OF**
15 **ATTORNEY'S FEES AND EXPENSES UNDER § 3-1901 OF THIS ARTICLE.**

16 **Article - State Government**

17 12-104.

18 (a) (2) **(I) [The] SUBJECT TO SUBPARAGRAPH (II) OF THIS**
19 **PARAGRAPH, THE** liability of the State and its units may not exceed \$200,000 to a
20 single claimant for injuries arising from a single incident or occurrence.

21 **(II) THE LIMIT ON LIABILITY UNDER SUBPARAGRAPH (I) OF**
22 **THIS PARAGRAPH DOES NOT INCLUDE ANY AWARD OF ATTORNEY'S FEES AND**
23 **EXPENSES UNDER § 3-1901 OF THE COURTS ARTICLE.**

24 12-109.

25 **[Counsel] EXCEPT AS PROVIDED IN § 3-1901 OF THE COURTS ARTICLE,**
26 **COUNSEL** may not charge or receive fees that exceed:

27 (1) 20% of a settlement made under this subtitle; or

28 (2) 25% of a judgment made under this subtitle.

29 **SECTION 2. AND BE IT FURTHER ENACTED,** That this Act shall be
30 construed to apply only prospectively and may not be applied or interpreted to have
31 any effect on or application to any case filed before the effective date of this Act.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2013.

HOUSE BILL 129

D1
HB 265/12 – JUD

3lr1471
CF 3lr1472

By: **Chair, Judiciary Committee (By Request – Maryland Judicial Conference)**

Introduced and read first time: January 17, 2013

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Task Force to Study Implementing a Civil Right to Counsel in Maryland**

3 FOR the purpose of establishing the Task Force to Study Implementing a Civil Right
4 to Counsel in Maryland; providing for the composition, chair, and staffing of the
5 Task Force; prohibiting a member of the Task Force from receiving certain
6 compensation, but authorizing the reimbursement of certain expenses;
7 requiring the Task Force to study and make recommendations regarding certain
8 matters; requiring the Task Force to report its findings and recommendations to
9 certain public officials on or before a certain date; providing for the termination
10 of this Act; and generally relating to the Task Force to Study Implementing a
11 Civil Right to Counsel in Maryland.

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
13 MARYLAND, That:

14 (a) There is a Task Force to Study Implementing a Civil Right to Counsel in
15 Maryland.

16 (b) The Task Force consists of the following members:

17 (1) three members of the Senate of Maryland, appointed by the
18 President of the Senate;

19 (2) three members of the House of Delegates, appointed by the
20 Speaker of the House;

21 (3) three members appointed by the Governor, one of whom shall be
22 an attorney who is a member of the Maryland State Bar Association and who is
23 appointed after consultation with the President of the Maryland State Bar Association
24 and one of whom shall be an attorney or a legal provider or both; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (4) three members who are representatives of the Judiciary, appointed
2 by the Chief Judge of the Court of Appeals.

3 (c) The Chief Judge of the Court of Appeals shall designate the chair of the
4 Task Force, who shall have a vote in the recommendations of the Task Force.

5 (d) The Maryland Access to Justice Commission shall provide staff for the
6 Task Force.

7 (e) A member of the Task Force:

8 (1) may not receive compensation as a member of the Task Force; but

9 (2) is entitled to reimbursement for expenses under the Standard
10 State Travel Regulations, as provided in the State budget.

11 (f) The Task Force shall:

12 (1) study the current resources available to assist in providing counsel
13 to low-income Marylanders compared to the depth of the unmet need, including the
14 resulting burden on the court system and the stress on other public resources;

15 (2) study whether low-income Marylanders should have the right to
16 counsel at public expense in basic human needs cases, such as those involving shelter,
17 sustenance, safety, health, or child custody, including review and analysis of the
18 Maryland Access to Justice Commission's "Implementing a Civil Right to Counsel in
19 Maryland" report and each other previous report by a task force, commission, or
20 workgroup on this issue;

21 (3) study alternatives regarding the currently underserved citizenry of
22 the State and the operation of the court system;

23 (4) study how the right to counsel might be implemented in Maryland;

24 (5) study the costs to provide meaningful access to counsel and the
25 savings to the court system and other public resources;

26 (6) study the possible revenue sources; and

27 (7) make recommendations regarding the matters described in this
28 subsection.

29 (g) On or before October 1, 2014, the Task Force shall report its findings and
30 recommendations to the Governor, the Chief Judge of the Court of Appeals, and, in
31 accordance with § 2-1246 of the State Government Article, the President of the
32 Senate, the Speaker of the House, the Senate Budget and Taxation Committee, the

1 Senate Judicial Proceedings Committee, the House Appropriations Committee, and
2 the House Judiciary Committee.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2013. It shall remain effective for a period of 1 year and, at the end of
5 September 30, 2014, with no further action required by the General Assembly, this Act
6 shall be abrogated and of no further force and effect.

Beyond Compliance:

Creating a Culture of Inclusivity and Accessibility among Maryland State Courts and Legal Service Providers

Maryland justice system partners, including the courts and legal services providers, can enhance access to the civil justice system by communicating goals of inclusivity and accessibility, and by fulfilling those goals in operating courts and legal services programs. The civil justice community should comply with state and federal disability requirements, but, more than that, should strive to achieve meaningful justice for all through effective and accessible practices. This document does not articulate the standards that apply to courts and providers, as these may differ. Rather this document is intended to articulate general principles that should help courts and providers fulfill in practice the spirit with which the regulations were adopted.

The Maryland Access to Justice Commission recommends courts and providers adopt the strategies referenced in this document in order to provide:

- ❖ Accessible Websites
- ❖ Accessible Facilities
- ❖ Proactive Inclusivity Practices

ACCESSIBLE WEBSITES

- **Establish and post a policy that all court or organization websites will be accessible.**
- **Identify personnel responsible for website accessibility review.**
 - Create a position to coordinate and administer the organization’s accessible website policy.
 - Have each court and each provider identify a staff person to serve as the web page accessibility coordinator.
- **Provide training on web accessibility to all web page accessibility coordinators.**
- **Adopt the following tenets of website accessibility:**
 - All images, image maps and graphics have an alt tag or long description
 - Provide a “Skip Navigation” button so those using screen readers do not have to hear all the navigation links before proceeding.
 - Ensure text links clearly indicate what a link is supposed to do.
 - In tables, ensure the header and row identifiers are associated with each data cell, using HTML, so a person using a screen reader can understand the information, or provide the information from tables in a linear (text) format, as well.
 - Provide a contact link on all pages so users can request accessible services or make suggestions for improvement.
 - Follow the Section 508 Checklist for HTML provided by WebAIM.
- **Have the site tested regularly by persons with disabilities or disability advocacy groups.**

ACCESSIBLE FACILITIES

- **Establish and post a policy and plan for ensuring court and program facilities are accessible.**
 - Incorporate the recommendations of the Courthouse Access Advisory Committee of the U.S. Access Board in future courthouse design and planned renovations.
 - Select rented spaces that comply with the Americans with Disabilities Act (ADA) and the Americans with Disabilities Amendment Act (ADAA).
 - Require contractual providers who offer their services at their own site, to provide services in accessible locations.

- **Prominently display a web page with all the accessibility information users will need including:**
 - Links to Google Maps, public transportation directions and public access maps of each court or provider location.
 - How to request an accommodation.
 - Lists of ADA coordinators.
 - Policy on accommodations.

- **Review facilities and make necessary improvements that are possible with existing resources.**

Address:

 - Exterior access, entranceways, accessible parking.
 - Interior accessibility.
 - Public counters and key public use areas.
 - Courtrooms and specific function areas.
 - Access to raised elements.
 - Signage.
 - Restrooms, kitchens.

- **Provide resources to aid those with mobility or stamina limitations, where funding permits.**
 - Provide wheelchairs and/or scooters.
 - Provide benches and chairs in numerous areas, inside the facility and in its immediate environs.

PROACTIVE INCLUSIVITY PRACTICES

- **Provide outreach to all program or court users to ensure all are aware of the accessibility policies and practices of the program or court.**
 - Create a prominent place on the organization website for accessibility resources and information.
 - Create prominent signage that makes clear the organization or court's accessibility policies, on-site resources, and how to get help while in the building.

- **Take proactive steps to reach out to program or court users to identify their needs.**
 - Station floating intake specialists near building entrances and empower them to address a broad range of issues right then and there:
 - Give intake specialists head sets so they can speak to supervisors from the floor.
 - Give intake specialists IPADs or other handheld devices they can use to look up case information, check for income eligibility, arrange for an interpreter, or special accommodation without going to an office or standing at a desk.
 - Equip their handheld devices with the ability to take credit card payments for program or court fees, fines other payments.
 - Have the intake specialist dress in a distinctive manner so they can be easily recognized.

Accessibility & Documents Posted Online

There are several ways to make your document more accessible to people with differing abilities. The tips below can help a person who cannot use a computer mouse or a person who uses a “screen reader” when they access your document on a computer.

A screen reader is text-to-speech software, which tells a computer to “read” its screen aloud to a person with vision impairment. Many of the issues discussed below improve how a screen reader conveys information aloud, or how a disabled reader can tab through the document’s content, so they can reach the particular content that they need.

The Microsoft and Adobe tools discussed in these instructions are helpful. However, you are far more knowledgeable than any tool about the context of the information you’re trying to convey. The tools discussed below may give you errors with which you will disagree. That’s ok if you have a sense of what information needs to be conveyed aloud and at what point you have achieved your communication goals. Consider the following in evaluating your documents:

- Is this information something that I would want described aloud to the reader if he or she was trying to understand the document, or is this information unnecessary?
- How can I format this document to enhance a listener’s ability to understand, when the document is being read aloud?

Make the original Word document as accessible as possible before you convert it to a PDF

This document explains accessibility considerations and features of the most recent versions of Microsoft Word 2010 and Adobe Acrobat X. If you plan to post a PDF of your Word document, do your best to make both the source Word document, and the final PDF document accessible. Why?

1. When you convert the document to a PDF, it will save you a few steps (such as “tagging” the document).
2. There are only certain things you can change in Adobe Acrobat, so some accessibility issues MUST be fixed in Word if you are ever to address them. This is the case even if you don’t ever intend to post the Word document publicly.

“Accessible” is not a completely objective state. Accessibility is a developing area of technology, and you may find the software “buggy” at times. Taking these considerations into account, the Commission’s goal is to make our documents as accessible as is practical with the tools and resources that are available to us. We encourage you to do the same to the extent to which you are able. We hope that by using this document, you can incorporate accessibility considerations into your word processing routines.

For more information about the Maryland Access to Justice Commission’s Policy on Accessibility, visit www.mdcourts.gov/mdatjc/accessibility.html.



Checking and Correcting Documents for Accessibility in Microsoft Word 2010¹

After you create and save a document that you plan to post publicly...

STEP 1: Run the Microsoft Word Accessibility Checker

1. Make sure the file type is in 2010 file format (ending in “.docx”). Resave the file in this format if necessary.
2. Click **File > Info > Check for Issues > Check Accessibility**
3. The Accessibility Report will show up on the right side of the screen. As you click on errors and warnings that it lists, a box at the bottom right will explain how to fix each issue (see below instructions for further guidance).

STEP 2: Issues to Fix – and How to Do So

“Missing Alt Text”

Adding “alt text” to an image provides a screen reader with text to read aloud, describing the visual object.

For each image, table, or other visual object:

- **Right click** on the image/table on the document
- Select **“Format Picture”** or, for a table, **“Table Properties”**
- Click **“Alt Text”** tab. Type in a **“Title”** for the picture/table (as short as possible).
- (Only provide a **“Description”** if necessary. A screen reader will automatically read the **“Title”** aloud, and, if the person listening decides they want more information, they can elect to listen to the **“Description.”** Consider what you would and wouldn’t want described aloud if you couldn’t see the document.)

If the image is not something that provides valuable information when read aloud, type “ ” (two quotation marks) in the “Alt Text” box, which means “there is something here, but it’s not necessary to describe.” Generally, **use “ ” for images added for design that serve no informational purpose.**

Provide substantive “alt text” for visual objects such as logos (but not multiple times if the logo is on each page), charts, and figures.

“Repeated blank characters”

- Delete extra spaces after sentences end.

¹ Earlier versions of Microsoft Word will not have the “Accessibility Checker” feature, but you can still “fix” the issues discussed in Step 2. For help with these issues in prior versions of Word, search Microsoft’s website at www.office.microsoft.com/en-us/word-help/.



- Instead of hitting “return” multiple times, to vertically align something:
 - Delete the old spacing that pushed the text or object down to the middle of the page
 - Highlight the text or object with your mouse
 - Click the “Page Layout” tab at the top of Word
 - Click the “Page Setup” launcher (the small arrow in the bottom right corner next to “Page Setup”)
 - Click the “Layout” tab
 - Under “Vertical Alignment,” select “Center”

“Unstructured document”

Using “Styles” will add a consistent formatting structure to your document. Telling Word which text is a “heading” provides the screen reader and its listener orientation within the document.

- Add headings using “Styles” – under “Home” tab
- Correct formatting of new headings to match rest of document
- For more information about using “Styles,” visit <http://office.microsoft.com/en-us/word-help/style-basics-in-word-HA010230882.aspx>

“No Header Row Specified”

To label the headings in a table (so a screen reader can understand the structure of the table and convey it to a listener with visual impairment):

- Highlight the row (horizontal cells) containing the label for each column in the table.
- Locate the **Table Tools** tab group and click on the **Layout** tab
- Select the “**Repeat Header Rows**” option – this labels cells in the row as headings.



Other Issues

Use discretion when deciding whether it is necessary to fix the following issues:

- **Unclear hyperlink text**

Microsoft Word usually gives this error if you provide a hyperlink in the text of a document. It is telling you that a screen reader, when reading the document aloud, will only see the visible text, it might not tell the listener the web address. Be sure to include the web address in the text of the document, or in a footnote at the bottom of the page if the link is long.

- Not accessible: “Visit our [website](#).” (The listener will not hear the web address.)
- Accessible: “Visit our website, www.mdcourts.gov/mdatjc.” Or provide the web address in a footnote.

Sometimes, the Checker might tell you there is an accessibility error, when the web address is written out on the page. The Accessibility Checker can’t actually read the hyperlink. You can ignore such errors.

- **Objects not in line**

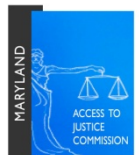
When deciding where to place images or tables in your document, you can choose to put the object in line with the text, or make it so that you can move the object around freely. Placing the object in line with the text provides clear orientation to a screen reader, as opposed to the “floating” object, which can overlap other objects or text.

This is an easy error to fix if you are in the process of creating a document, because you can plan for it. However, if you are making the document accessible after the fact, this is sometimes a complicated error to fix if there are many objects requiring specific locations on the page.

- Right click the image/object
- Select **“Format Picture”**
- Click the **“Layout”** tab, and select **“In Line With Text”**
- This will limit how you can move the image/object around on the page.

If you have trouble, it is possible to fix this issue in Adobe Acrobat using the “Touch Up Reading Order” tool (see below).

- **These are the most common Word accessibility errors, but this is not a comprehensive list.**



STEP 3: Run the Microsoft Accessibility Checker Again

Fix any other issues. Save the Word document.

STEP 4: Convert the Word Document into a PDF (optional)

(do not “Print to PDF” – Word will not “tag” the PDF if you do it this way)

1. In Microsoft Word, click the “**Acrobat**” tab at the top of the window (only present if you have both Microsoft Word 2010 and Adobe Acrobat X).
2. Click the “**Create PDF**” button.
3. Adobe Acrobat X will launch. **Save** the PDF with the same name as the document.

For more information and instructions about the Microsoft Accessibility Checker, visit <http://office.microsoft.com/en-us/word-help/accessibility-checker-HA010369192.aspx>

Creating More Accessible PDFs in Adobe Acrobat X ²

*Continue to this section if you would like to convert an accessible Word document to an accessible PDF. Or, begin at this section if you don’t have the original Word document from which to work, and you are starting with a PDF.

STEP 5: Run the Accessibility Check

1. Set the **language** for the PDF
 - a. **File > Properties**
 - b. Select the “**Advanced**” tab
 - c. Under “**Language**” dropdown, select “**English**” (or whatever language the document is).
2. Run the **Accessibility Report**
 - a. **Tools > Accessibility > Full Check**
 - b. The Accessibility Report will pop up. There shouldn’t be too many issues if you converted it from MS Word. If there are problems, fix those issues with the Touch Up Reading Order Tool (see below).

² These are instructions for Adobe Acrobat X (the 10th version of the software). Some other prior versions of Adobe Acrobat do have the Accessibility Check tool, but the instructions will differ. You can find appropriate instructions on how to access your version’s tool at <https://www.adobe.com/accessibility/products/compliance/>.



3. For more complex documents, have Acrobat read the document aloud:
 - a. **View > Read Out Loud > Activate Read Out Loud**
 - b. Then, **View > Read Out Loud > Read This Page Only** (no need to listen to the entire document, just pages that might have issues)
 - c. To pause or stop reading: **View > Read Out Loud > Pause (or Stop)**
4. If the document reads out loud as it should, **save** the PDF.

STEP 6: Fix Issues

After you fix the issues below, the ultimate test is whether **the PDF reads aloud correctly** (see “Read Out Loud” instructions above). You might still get errors no matter how well your document reads aloud.

The Touch Up Reading Order Tool

If the document does not read out loud as it should, or if there is more information on the page than needs to be read out loud (such as with a complex letterhead), use the Touch Up Reading Order tool.

1. On the top right hand side: **Tools > Accessibility > Touch Up Reading Order**
2. Click the “**Show Order Panel**” button. From here, you can move the reading order around (put the items in the numerical order that you want Acrobat to read them aloud).
3. If everything is very out of order, click the “Clear Page Structure” button to get rid of the current reading order.
4. If no gray blocks show up on the page: With your mouse, starting at the top of the page, **highlight a part of the page** (e.g., a block of text or an image).
5. Click the button in the Touch Up Reading Order box that describes this part of the page (usually “**text**,” “**figure**,” or “**table**”).
6. Go down the document doing the same thing: highlight, select describing button. Repeat as necessary.
7. In the “Order Panel” box on the left, make sure all of the items are in the correct order. Drag and drop them to rearrange the reading order, if necessary.
8. Test the reading order again using Read Out Loud, if necessary.
9. Save the PDF.



Adding alternate text to an image

1. Choose **Tools** on the Menu bar.
2. Choose **Content**.
3. Select the **Edit Object** tool.
4. Click on the image. **Right click** and choose **Properties**.
5. Click on the **Tag** tab and fill in the **Alternate Text** field.

Sometimes you will still receive an error. Remember the ultimate test is “does the PDF read out loud correctly?”

Fixing Tab Order

1. Click the “Pages” tab – on the top left hand side, the icon that looks like a piece of paper.
2. Select the page where the Accessibility Report says there is a problem.
3. Right click the page thumbnail. Select “**Page Properties**.”
4. Select **Tab Order > Use Document Structure**
5. Click “**Ok**.”

For more information and instructions about accessibility from Adobe, visit:

<https://www.adobe.com/accessibility/products/acrobat/training.html>

Another Consideration: Colorblindness

When choosing a color scheme, consider colorblind individuals. For example, when displaying a pie chart, having a green and a red section next to one another might cause the sections to blend together for some people.

Adobe Photoshop and Adobe Illustrator contain tools that simulate how your designs will look to a person with colorblindness. Visit <https://www.adobe.com/accessibility/products/photoshop/overview.html#validation>.

There are also free online tools where you can upload an image to see how it looks to a person with colorblindness. One such tool is available online at <http://www.vischeck.com>.

