

O R E G O N L A W C E N T E R

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TESTIMONY ON HB 5016
Before the Public Safety Subcommittee of the Joint Ways and Means Committee
March 20th, 2013
Submitted by: Brena Lopez

Co-Chairs Winters, Williams and Members of the Joint Ways and Means Committee Subcommittee on Public Safety:

My name is Brena Lopez. I am an attorney at the Marion-Polk Regional Office of Legal Aid Services of Oregon. I am speaking today for the statewide network of legal aid providers and am asking you as a poverty law attorney to support HB 5016 and provide adequate funding for the judicial branch. Thank you for the opportunity to testify today.

Legal Aid Services of Oregon is one of the statewide legal aid programs providing free civil legal assistance to low-income Oregonians in all 36 counties through offices located in 17 different communities. Over 40% of our cases are family law matters, almost all of which involve domestic violence or child abuse.

Legal aid routinely sees how the courts play a vital role in addressing the needs of Oregon's vulnerable families and children. For domestic violence victims, the courts are a main gateway to critical legal remedies, such as restraining orders that provide safety and separation, and divorces, custody, parenting time, and support orders that provide stability and healthy futures for families. Nearly 10,000 Family Abuse Prevention Act Restraining Orders cases were filed in Oregon in 2012. Timely access to the courts is essential for victims seeking emergency relief. Courts now are able to make sure that a judge hears the emergency application almost always on the same judicial day the request is made. The requests can number as few as 2 -3 a week in some counties to sometimes over 20 a day in Multnomah County. Without reliable access to court orders of protection in a time of need, victims and their children may suffer serious safety consequences.

Recently, in Josephine County, a victim of domestic violence was unable to obtain a Family Abuse Prevention Act Restraining Order on a Friday that was a designated court furlough day. She had to

wait until the following Monday, without protection when she needed it, to file her request with the court. As attorneys for these victims, we worry about the dangers of additional delays in responding to hearing requests or in the having enough staff to get copies of restraining order quickly to the sheriff's office for service. Safety is always the issue, and sometimes lives are at stake.

When families are in turmoil, they need someone to set the rules – rules that the parties know are enforceable. Courts are the place Oregonians come to get court orders to help with immediate and critical problems affecting the long term health and safety of their families. In family law cases, judges have a powerful role in ending troubled familial relationships and making orders that will keep families healthy and safe. Judges decides which parent will have custody, what amount of parenting time is appropriate for the other parent, how property will be divided, and the amount of child or spousal support that will provide financial security. Without these orders, we see parents fighting over children who are moved back and forth between households haphazardly and sometimes unsafely. Parents may turn to the police for help or child welfare may get involved.

Without child and spousal support orders, separated parents may not be able to pay the rent and their bills and may lose their housing and medical care.

Legal aid has seen firsthand the effects of dwindling family law resources in the court system on poor Oregonians. Parties involved in family law cases must often navigate the legal system on their own. Legal aid and volunteer attorneys can handle only about 15% of the need. Oregon made a lot of progress on access to justice issues in the late 1990s and the following decade. We enacted authority for family law facilitators at courthouse – court staff who were trained and funded – not to provide legal advice, but to provide procedural help with forms. With 86% of family law litigants using the court system without an attorney, these facilitators were a critical and heavily used service, welcomed by litigants, the courts and the family law bar.

Facilitator positions are largely gone. Litigants are now struggling to manage their own cases in an environment where they don't speak the language and don't understand the process. Sometimes, they can't even file their cases because a required form is missing or incomplete. Errors are made, appearances are missed, and requests to "re-do" cases are not uncommon. Without access to a family law facilitator, parents often end up confused and begging for help. Without assistance, parents are often unable to get a parenting time order and then struggle to provide stability for their children. When the courts suffer reductions in these critical services, demand does not go away. In Coos and Curry Counties where facilitation programs were terminated, the local legal aid office has 7 to 10

contacts a week from individuals requesting forms and at least 2-3 who have questions about forms and need extra help that facilitators used to provide. In urban counties, the demand is much greater. In addition, the courts have lost the family law counsel position at the State Court Administrator's Office who oversaw the development and updating of OJD family law forms and coordinated family law policy issues for the courts. Other staff dedicated to family law is also gone. These staff losses have been devastating. Without staff, the court is unable to centrally and efficiently update the family law self-help forms for law changes (which happen every year) so that all local courts have access to the legally sufficient forms, uniform training on statutory, rule, and form changes for remaining court facilitators, and unable to provide centralized support for facilitators who have questions about forms and procedures.

One example of the loss of this vital staff involved a victim of domestic violence fleeing from other states who was unable to obtain separation forms. These forms were removed from the OJD web page more than a year ago, because centralized family law resources in the Office of the State Court Administrator were unavailable to update them. While divorce packets are still accessible, victims who are newly arrived in Oregon are ineligible for divorce, because they have not resided here for six months. Other than accessing a legal aid office that may not have the resources to help, a victim in this situation may be unable to obtain a separation judgment that would provide a legal structure to keep the abuser at bay.

Opportunities to improve access to justice for self-represented litigants also have been deferred. The courts have not been able to explore strategies to meet the needs of growing non-English speaking populations. Forms have not been refined to incorporate newer Plain English principles to better serve less-educated litigants. In addition, the transition to interactive family law forms that holds promise in terms of increasing access for computer literate litigants and increasing court efficiencies in the eCourt environment has been delayed.

Reduced family law staff at the local court level also impairs judges' ability to effectively conduct court business. If judges do not have the most recent paperwork filed in a case because there is no court staff to do the filing, they are impaired in their ability to manage the case. The public, litigants, and attorneys can't get through to the court on the phone because of reduced hours due to reduced staff.

While we understand that you are forced to make very difficult decisions this year, we urge you to provide adequate funding to ensure timely and meaningful access to the courts for family law litigants, victims of domestic violence, and others in need.

Again, thank you for the opportunity to testify today. I would be happy to answer any questions.

Sincerely,

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