

Note: this  
is not the  
full study.

ILLINOIS  
LEGAL  
NEEDS  
STUDY

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PLAN FOR ACTION

# ILLINOIS LEGAL NEEDS STUDY

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## Executive Summary

In 1987 more than 600,000 low-income households in Illinois experienced approximately 1,000,000 civil legal problems. Some of these problems, such as family and domestic relations problems, are common to people of all incomes. Other problems are unique. By passing laws and establishing programs to protect and assist those in our society who are most vulnerable (the poor, the elderly, children, people with disabilities) society has made its most vulnerable citizens its most regulated citizens. In order to obtain basic rights and necessities such as food and shelter, these citizens must deal with an increasingly complex state bureaucracy and a confusing legal system. Eight times out of ten in Illinois they must face their problems alone, without legal assistance.

Often there is a gap between the promise of our laws and the realities of life for those the laws were designed to assist and protect. A "Fair Housing" law, for example, cannot make housing fair if people are unable to assert their rights through the legal system. If the bold and noble promises of our laws, to protect children, provide for the poor, prevent discrimination, are to become reality, then legal assistance is not a luxury. It is a necessity.

Recognizing the importance of legal assistance for the most vulnerable of our citizens, The Chicago Bar Association and the Illinois State Bar Association commissioned the Illinois Legal Needs Study. The fourteen-month study was the first statewide legal needs assessment conducted in Illinois, and was undertaken to achieve these major objectives:

1. To quantify the legal needs of the poor throughout Illinois.
2. To inventory the existing civil legal assistance resources available in Illinois and identify any gaps in services.
3. To develop a set of recommendations to address the unmet legal needs of the poor.

The Spangenberg Group of Newton, Massachusetts was contracted to conduct the study, which is to date the most thorough and comprehensive statewide study of the legal needs of the poor undertaken in this country. Robert L. Spangenberg, President of The Spangenberg Group, served as Research Director. Ruth Ann Schmitt of the Lawyers Trust Fund of Illinois served as Project Director, with assistance from Project Coordinator Mark Marquardt.

The study also benefitted from the expertise and enthusiasm of a statewide Advisory Board, co-chaired by Laurel G. Bellows and Thomas S. Johnson, and a network of individuals from around the state who served on the Private Bar and Provider Committees.

## Poverty in Illinois

While the national poverty rate declined in the 1970's, the poverty rate in Illinois increased slightly, from 10.2% to 11%. After the recession of the early 1980's the nation experienced the largest period of peacetime economic expansion in modern history. Some parts of Illinois have experienced economic expansion in the 1980's, but it is painfully clear that not all areas of the state have benefitted equally. By the mid-1980's, the poverty rate in Illinois had increased to 15.1% of the population.

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Most of the one out of six people in Illinois who are poor are workers, or are in families with a wage earner. A person working at minimum wage for 40 hours a week, 52 weeks a year, earns \$6,968. That figure is \$4,032 less than the federally established poverty level income of \$11,000 for a family of four, and \$260 below the poverty level for a family of two.

According to the 1980 Census, in metropolitan areas of Illinois nearly 1.5 million people were poor. The poverty rate in Chicago is comparable to that of other major urban areas. Poverty disproportionately affects minorities, and the income gap between whites and blacks in Chicago is the widest of any major metropolitan area in the country.

In rural areas, according to the 1980 Census, more than 300,000 Illinois citizens lived in poverty. In some counties in southern Illinois nearly one third of the population is poor.

Urban or rural, poverty is prevalent, and its consequences are devastating. Across the state single parent households headed by women are most likely to be poor, and the brunt of the suffering is borne by the children.

## Current Availability of Legal Services

When low-income people in Illinois need legal help for a problem, eight times out of ten they are unable to get it. In 1987, approximately \$17.6 million in federal, state, and private funds, and the volunteer services of thousands of lawyers, paralegals, and others, were expended to provide representation in civil cases to 240,000 low-income clients. Staff attorneys and volunteers have shown enormous dedication, working with limited resources and often under difficult circumstances. The importance of that help to the thousands of clients who have been assisted should not be underestimated. The fact remains, however, that the available services have only been able to meet 20% of the civil legal needs of the poor in Illinois.

Drastic reductions in funding from the federal Legal Services Corporation are partly responsible for the inadequacy of resources in Illinois. In 1982 the Legal Services Corporation budget was cut from \$321 million to \$241 million, a 25% reduction that was passed on to the states. The LSC cutbacks caused retrenchment and often closings across the state, but were especially devastating in downstate areas where there are few independent programs not funded by LSC.

In the wake of these funding cuts, state and private monies became increasingly important. State and local government provided only 2% of all funding for legal services in 1987. Contributions from foundations, the United Way, law firms, and individuals more than doubled between 1980 and 1987. The Interest on Lawyers' Trust Accounts (IOLTA) program, administered by the Lawyers Trust Fund of Illinois, will provide \$2.5 million in 1990, compared to \$100,000 in 1984.

Despite increases in some categories of funding, overall the 1980's have been a time of retrenchment and reduced availability of services. Programs have been forced to cut staff and close offices. Between 1980 and 1987, fifteen full-time legal services offices were closed around the state. There was a 15% reduction in full-time staff, including 57 fewer full-time attorneys, ten fewer paralegals, and 24 fewer full-time support staff. Most significantly, programs have been forced to develop case priority screening systems so restrictive that only emergency cases in a handful of areas are accepted. Consequently, programs have had to turn away large numbers of deserving potential clients with serious problems.



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As resources have been limited and staff substantially reduced, the workload of legal services has increased dramatically. From 1980 to 1987 the total number of cases handled increased from over 63,000 to almost 107,000. The combination of increased caseloads and fewer staff has led to a reduction in the level of service provided to many clients. Statewide almost 70% of the services provided in 1987 were at the minimum level of brief service.

Office closings and staff reduction have disproportionately affected areas downstate, where a few offices are supposed to serve many counties and hundreds of miles of territory. The distances to be travelled and the lack of public transportation, when combined with the general reduction in resources, mean that many rural areas are virtually unserved.

The majority of the people who receive legal services in Illinois today are mobile, speak English, have no special physical or medical problems, and live in medium sized towns or larger cities. The service they receive often falls short of the service a paying client would expect from an attorney. The rest must fend for themselves.

## The Legal Needs of the Poor in Illinois

The Illinois Legal Needs Study included a telephone survey of a random sample of 1,900 low-income households around the state. The telephone survey provided the opportunity to learn firsthand about unmet legal needs of the poor in Illinois, based on problems households had experienced in the preceding year. This survey allowed these needs to be quantified for the first time.

Fifty-two percent of the households surveyed by telephone, from December 1987 to February 1988, had experienced no legal problems in the preceding year. The remaining 48% had experienced an average of 3.54 distinct civil legal problems for which they had no legal help. When these results are extended to the estimated total of 614,000 low-income households in Illinois, they indicate that approximately 300,000 of those households had, on average, 3.54 unaddressed civil legal problems each. Based on this conservative figure, which does not include multiple occurrences of problems, low-income households in Illinois faced close to 1 million civil legal problems in that year for which they did not receive legal assistance.

The most frequently reported category of problems was public benefits, comprising 16.3% of the total. Problems related to housing (15.7%) family law (15%), consumer matters (14.7%), utilities (13.4%), and health care (13.4%) followed closely, showing the breadth of the need for legal services in Illinois.

The survey also revealed a lack of awareness about the availability of free civil legal services. Only 43% of low-income households surveyed were aware of civil legal services programs in their areas. There is a disturbing lack of information, and even some misinformation, among the client population and social services agencies about the nature and extent of available legal services.

## Gaps in Available Legal Services

The program questionnaires and extensive site visits around the state also identified a number of significant gaps in currently available legal services. These fall into several categories.

First, there are several substantive areas of law in which the demand for services far exceeds the services available. One such area is public benefits. Federal, state, and local government are all involved in the provision of income maintenance and other programs, and the bureaucracies and regulations are confusing, often creating difficulties for clients. In addition, Illinois' "work" program, Project Chance, includes some punitive sanctions, which generate a strong need for representation. Public benefits problems are often urgent because families depend on public assistance for necessities such as food and shelter. Legal services programs are handling more public benefits cases than ever before, but the demand still exceeds the supply.

Housing is another area where the need exceeds the services available. Substandard housing is an enormous problem in all areas of the state. Many landlords evict tenants at will. These problems are exacerbated by the fact that almost no new low-income housing has been built during the 1980's. The lack of safe, decent, affordable housing is a serious problem in all parts of the state, and the result is a dramatic increase in homelessness, including homeless families. More legal assistance is necessary to defend against evictions and to help tenants resolve problems with their landlords, public and private.

Perhaps the most pressing area of need is that of domestic relations and family problems. Most legal services programs have drastically reduced their work in this area, and a great many domestic relations cases are currently being handled by private attorneys through referral programs. Some programs have waiting lists of up to a year to obtain even an interview for an uncontested divorce. Many serious problems involving child custody, child support, domestic violence, and abuse and neglect persist because of the lack of legal help.

While public benefits, housing, and family cases are the greatest areas of unmet need, there are substantial gaps in other areas, such as employment, immigration, and consumer and credit.

Another gap in available legal services concerns special population groups, including people with disabilities, immigrants, migrant workers, the mentally ill, the elderly, homeless people, the incarcerated, victims of domestic violence, and people with language barriers. All of these groups experience unique problems for which they require legal assistance, and currently few of their needs are being addressed.

Finally, Illinois' size creates significant geographic gaps in service, a problem exacerbated by the complete lack of public transportation in rural areas. As noted previously, many rural areas of the state are essentially unserved at the present time.

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## Conclusion

While many people have long suspected that existing resources are inadequate to meet the legal needs of the poor, those suspicions have not been supported by research. Now the facts are in. The unmet legal needs of the poor have been quantified through an objective, statistically valid telephone survey, and further documented by extensive fieldwork throughout the state.

The problem revealed is a substantial one. Each year, by conservative estimates, 300,000 low-income families face approximately 1,000,000 civil legal problems for which they do not have legal help.

Designing and conducting a comprehensive statewide study was not an easy task. It will be harder still to summon the resolve, resources, and creativity necessary to address the problems that the Illinois Legal Needs Study documents. This challenge will not be quickly or easily met. But the American legal system holds out the promise of equal justice under the law. This noble idea demands nothing less than the greatest possible effort to secure legal assistance for Illinois' most vulnerable citizens, in order to narrow the gap between the promise and the reality.

## Research Methodology

The methodology for the Illinois Legal Needs Study was three-pronged: a telephone survey of 1,900 low-income households, a questionnaire to 38 legal services programs, and on-site interviews with over 400 individuals from the legal community, social service agencies, public officials, and client and community groups.

The telephone survey gathered information directly from 1,900 low-income households from seven regions in the state, concerning their unmet legal needs. This was the primary method used to quantify legal needs based on firsthand information.

The survey of current legal services providers throughout the state was designed to collect objective data on services currently provided and to measure changes in the provision of legal services from 1980 to 1987.

The site interview component of the study was conducted last and provided the researchers with the opportunity to augment the data collected through the telephone survey and provider questionnaires. Thirty-five counties were visited and over 400 people were asked to identify the most critical legal needs of low-income people and special population groups.

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## Final Recommendations of the Advisory Board

The Advisory Board of the Illinois Legal Needs Study developed the following recommendations after considering the researcher's findings (presented in Chapter 7 of this report) and the proposed recommendations made by the Private Bar Committee and the Provider Committee. The Private Bar Committee consisted of 56 lawyers from around the state. These lawyers were chosen because of their leadership positions within the Chicago and Illinois State Bar Associations' substantive law committees. The Provider Committee was made up of representatives from 46 legal services programs in Illinois. The Advisory Board reaffirms its deep appreciation to the members of those two committees for their important contributions to this project.

The first set of recommendations are those that can be implemented in the short term. It is hoped that implementation of these will begin promptly. They are addressed specifically to:

- the legal community;
- the courts;
- funders;
- the government; and
- legal services programs.

The next set of recommendations concern special population groups, and address the often unique problems that confront members of certain groups. These recommendations are more general and are not addressed to specific entities, as they deserve broader attention.

The final set of recommendations are in the form of long-term guidelines. These recommendations may be impossible to implement immediately, but should be reviewed by all groups to which the Legal Needs Study is addressed in order to begin working toward the suggested goals.

Now that the Advisory Board has completed the Illinois Legal Needs Study, it is suggested that an appropriate commission or task force be established to facilitate implementation of the study's recommendations. Such a group should be given adequate funding and staff support, and should be representative of the various groups to which this report is directed. We recommend that the President of the Illinois State Bar Association and the President of The Chicago Bar Association invite the Governor of Illinois to establish a Governor's Commission on the Legal Needs of the Poor, so that a non-partisan, highly visible group will be in position to encourage and monitor the implementation of these recommendations.

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## Short-Term Recommendations to the Legal Community

1. Law firms should develop written pro bono policies that set individual targets for, encourage and reward the performance of pro bono work, such as:
  - a. Counting pro bono hours toward billable hour requirements.
  - b. Developing specialization in one or more areas of law affecting low-income persons, in order to provide better pro bono services.
2. Lawyers and law firms should be encouraged to designate a larger percentage of their charitable contributions for legal service programs.
3. All bar associations should enhance and/or establish advice and referral projects to serve their communities.
4. Bar associations should be urged to form committees to consider developing a mandatory pro bono policy for presentation to the Supreme Court of Illinois.
5. Bar associations should make a special effort to recruit retired attorneys for pro bono work.
6. Bar associations should provide recognition for pro bono efforts, and feature articles on pro bono work and legal services in their publications.
7. Bar associations in the Chicago area should work together to create a central information and referral system for legal services in the Chicago metropolitan area.
8. All bar associations, in consultation with local legal services programs, should make a more concerted effort to inform social service agencies, community groups, court personnel and state agencies about the availability of legal services in their areas.
9. Bar associations should support and work for the passage of legislation included in the Government section of these recommendations, and for increased funding at the state and federal levels. Bar associations should continue to encourage Illinois Senators and Representatives to work toward increases in funding for the Legal Services Corporation.
10. Providers of continuing legal education, including bar associations, should present more information and develop training sessions that focus on the legal problems of low-income persons, and should provide more training for a reduced fee or no fee to attorneys employed by legal services programs and pro bono attorneys designated by legal services programs.
11. Law schools should provide students with opportunities to work with low-income clients and encourage legal services work through:
  - a. Supervised programs or clinics;
  - b. Credit for participating in local legal services programs;
  - c. Offering more substantive legal services-relevant courses; and
  - d. Loan forgiveness for graduates pursuing careers in the provision of legal services and public interest law.
12. The American Bar Association should be encouraged to examine its law school accreditation criteria, and consider a requirement that students work with low-income clients in a supervised program.
13. Law schools should be encouraged to establish alternative dispute resolution clinics.



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## Short-Term Recommendations to the Courts

1. The Supreme Court of Illinois should adopt Rule 6.1 of ABA Model Rules of Professional Conduct, which encourages lawyers to provide pro bono services, as part of the Illinois Code of Professional Responsibility.
2. The leadership of the Judiciary should review the problem areas identified in the Illinois Legal Needs Study (guardians *ad litem*, guardianship hearings, domestic violence cases and others) and develop strategies to address inconsistencies and systemic shortcomings.
3. The Supreme Court should enforce compliance with its comprehensive IOLTA rule.
4. The Illinois Judicial Conference and the Illinois Judge's Association should address the subject of the need to award interim attorneys fees in appropriate family law cases.
5. The Illinois Judicial Conference should be requested to develop guidelines to assure consistency in the use of non-lawyer advocates in domestic violence cases, in accordance with the Illinois Domestic Violence Act of 1986.
6. The Courts should develop uniform standards for appointment of counsel in cases where it is necessary and/or required.
7. The Courts should make special efforts to recruit bilingual staff and translators for the hearing impaired.
8. The Chief Judge in each judicial circuit throughout the state should determine whether a dispute resolution center would significantly enhance the administration of justice in that circuit, and act pursuant to the Illinois Not-for-Profit Dispute Resolution Act to establish a dispute resolution fund.

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## Short-Term Recommendations to the Funding Community

1. Funders of legal services should be encouraged to cooperate with providers and each other around a set of long-term goals for legal services.
2. Foundations and Corporations should be encouraged to include funding for legal services to low-income people as a part of their overall social services programs.
3. Foundations and Corporations should be encouraged to consider legal services and legal remedies as an integral part of attempts to address systemic problems affecting low-income people and communities.
4. Funders should work with providers to simplify application procedures and grant administration.
5. Foundations and Corporations should provide stable general operating support for legal services programs, to ensure steady progress toward the goal of increasing the quality and availability of legal services.
6. Foundations and Corporations should consider cooperation among legal services programs as a condition of funding.
7. The Illinois IOLTA program should continue to focus on funding programs providing civil legal aid.

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## Short-Term Recommendations to Government

1. The Illinois General Assembly should provide revenue to support the provision of legal services to low-income persons from such sources as a civil filing fee add-on or an income tax check-off, or from general revenue.
2. The Illinois General Assembly Judiciary Committees should be encouraged to conduct hearings on the legal needs of the poor, and consider appropriate legislative changes in substantive areas such as housing, family law and other areas of need highlighted in the Illinois Legal Needs Study.
3. The Illinois General Assembly should appropriate funds to adequately support the Guardianship and Advocacy Commission.
4. The Illinois General Assembly should appropriate funds to support the appointment of guardians *ad litem* as required by the Illinois Probate Act and the Juvenile Court Act.
5. The Illinois General Assembly should consider ways to further simplify the process necessary to obtain an uncontested divorce.
6. The Illinois Department on Aging should increase substantially the percentage of Title III funds devoted to legal services in Illinois.
7. Congress should consider an income test for eligibility for legal services under Title III, to target services to the low-income elderly population.
8. State and local government should increase the percentage of funds devoted to the legal services components of federal programs they administer.
9. The Attorney General should encourage attorneys employed by the state to volunteer in organized pro bono programs where appropriate.
10. The Legal Services Corporation (LSC) should substantially increase funding for providers of legal services.
11. The Legal Services Corporation should not impose any new restrictions on the use of LSC funding; and should eliminate current restrictions on the types of low-income clients that can be served.
12. Agencies, especially those working in the public benefits area, should rewrite administrative procedures that routinely cause problems for clients.

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## Short-Term Recommendations to Legal Services Programs

1. Programs should review their program planning and develop priorities in light of the data contained in the Legal Needs Study.
2. Programs in the Chicago metropolitan area should formalize the process of coordination, cooperation and planning for the effective delivery of legal services.
3. Programs should continue to promote joint coordination, planning and implementation of services among legal and social services providers and the private sector to address the needs of clients.
4. Programs should make a more concerted effort to inform social service agencies, community groups, court personnel and state agencies in their service areas about program priorities and the availability of legal services.
5. Programs should increase their use of office technology to improve efficiency.
6. Programs should continue to use, expand or add alternative systems for the delivery of legal services, including printed self-help materials, ombudsmen, evening hours and alternative dispute resolution.
7. Programs should increase their efforts in the area of group representation, impact litigation and legislative advocacy.
8. Programs should make a wide range of pro bono opportunities available to private attorneys, especially in the downstate areas.
9. The Illinois State Support Center, in cooperation with legal services programs, should re-evaluate the priorities of the Center to assure that they meet the most pressing needs of civil legal services in Illinois from both the providers' and the client communities' points of view.

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## Recommendations Concerning Special Population Groups

1. *Homelessness*: More representation is needed for tenants defending against foreclosure and evictions. The private bar and legal services programs need to improve outreach to shelter populations and to social service agencies that deal with the homeless.
2. *Domestic Violence*: Legal assistance should be considered an essential element of all domestic violence programs. Domestic violence programs should have resources available to hire or retain counsel for advice and representation, and to supply lay advocates (pursuant to the Illinois Domestic Violence Act) to assist and support victims through initial court proceedings and the process of separation from their abusers. Existing programs to fund legal advocates working with domestic violence programs should be expanded to support such advocates in every county of Illinois.
3. *Children*: More well-trained attorneys must be available to provide children in Illinois with high quality legal representation. Every effort should be made to recruit and train more attorneys to practice in areas affecting children, especially special education and abuse and neglect. Such efforts should include expanded course offerings at law schools and more continuing legal education courses. In addition, clear and consistent standards of practice must be developed for guardians *ad litem* and assigned counsel who work with children.
4. *Guardianships*: Existing resources and the responsibilities of each major actor in the guardianship process need to be better identified and publicized. Consideration should be given to producing a guardianship directory and designating or forming a statewide entity to act as a guardianship clearinghouse, with a toll-free number for information and referral.
5. *Nursing Home Residents and Isolated Elderly*: More ombudsmen are needed who can visit nursing homes. Awareness of legal issues should be increased among social services providers who work with the isolated elderly, including the Visiting Nurses Association and other home health aides, to facilitate the referral of clients to legal service providers. More outreach is needed to the homebound and institutionalized elderly.
6. *Incarcerated Individuals*: Services should be provided to incarcerated persons in correctional facilities in Illinois.
7. *Language Barriers*: Both the hearing-impaired and non-English speaking populations should be served by trained and certified translators. Courts, legal services providers and assigned counsel should make special efforts to recruit bilingual staff and translators for the hearing-impaired. The Courts should move away from the use of informal translators to certified interpreters.
8. *Persons with Physical and Developmental Disabilities*: Efforts should be made to educate, train and sensitize the legal community about the rights to which persons with physical and developmental disabilities are entitled. Requirements for physical access to the courts, legal services offices and all public agencies should be enforced.
9. *Mentally Ill Persons*: There should be a greater awareness of the legal problems of the mentally ill, both institutionalized and non-institutionalized. Special training and support should be available for casehandlers who work with these clients.
10. *Migrant Workers*: More outreach should be provided to deliver legal assistance to migrant workers in the areas where they work.
11. *People with AIDS*: Legal services providers should begin planning for the anticipated increase in demand for both traditional and more specialized legal services of the increasing number of impoverished clients with AIDS.



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## Recommendations for Future Implementation

1. Over the next five years, every effort should be made to increase the current resources for civil legal services in Illinois, in order to reduce the 80% unmet legal need documented in the Illinois Legal Needs Study.
2. The State of Illinois should increase substantially its contributions to civil legal services, either through increased funding for existing state programs or general appropriations for legal services.
3. Efforts should be undertaken statewide to substantially expand legal assistance in the areas of legislative and administrative advocacy, impact litigation and group representation.
4. In Chicago, a more coordinated effort is needed to substantially expand the involvement of private pro bono counsel in civil legal services. These efforts must recognize existing programs and work in coordination with them.
5. A long-range plan should be developed for the Chicago area that recognizes the difficulties for clients created by a delivery system with inconsistent referrals, multiple access points and duplicative services, balanced with the need to maintain viable programs servicing neighborhoods and special population groups.
6. Additional resources for legal services providers should be directed to increasing the level of service provided to clients, particularly those with emergency cases, and to reducing the percentage of cases involving advice and referral only.
7. Full-service legal services offices that were closed as a result of Legal Services Corporation cutbacks should be reopened in the areas of greatest need as soon as possible.
8. All legal services providers must re-evaluate current efforts to provide services to areas most inadequately served by full-service offices.
9. The salaries of staff attorneys, paralegals and support staff should be raised to a level comparable with other public legal organizations in the area.
10. Continuing statewide efforts should be made by legal services programs, the organized bar, government and other entities to address ongoing problems of discrimination.